

STATE OF CALIFORNIA  
ENERGY RESOURCES CONSERVATION  
AND DEVELOPMENT COMMISSION

In the Matter of:

Implementation of Restructuring	)	Docket No.
Legislation (Public Utilities Code	)	96-IRR-1890
Section 374 [AB 1890]):	)	
Irrigation Districts	)	
	)	
	)	
	)	

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Thursday, February 20, 1997

10:05 a.m.

Held at the  
California Energy Commission  
1516 Ninth Street, Hearing Room A  
Sacramento, California 95814

REPORTED BY:

S. RICE

**COMMISSIONERS PRESENT**

DAVID A. ROHY, Presiding

ROBERT A. LAURIE

JANANNE SHARPLESS

**STAFF PRESENT**  
**(Alphabetically Listed)**

ROBERT ELLER, Advisor

GARY D. FAY, Hearing Officer

SUSAN GEFTER

JIM HOFFSIS

LINDA KELLY

DICK RATLIFF

ERIK N. SALTMARSH

LAURIE TEN HOPE, Advisor

**ALSO PRESENT**  
**(Alphabetically Listed)**

CAROLYN A. BAKER, Edson + Modisette

RICHARD BARZAN, Oakdale Irrigation District

MICHAEL BOCCADORO, The Dolphin Group

NANCY BOUGHER, City of Lodi

KENDRA DAIJOGO, The Gualco Group, Sacramento

MIKE DAY, Provost & Pritchard, Inc.

ANDERS CHRISTENSEN, Woodbridge Irrigation District

LAWRIE L. CRANSTON, Pacific Gas & Electric

**ALSO PRESENT**  
Continued

DOUGLAS E. DAVIE, Henwood Energy Services, Inc.  
RICHARD B. GREEN, Pacific Gas and Electric  
STEVEN F. GREENWALD, Davis Wright Tremaine LLP  
HAROLD HARRIS, Pacific Gas and Electric  
RAYMOND A. HAUG, Southern California Edison  
ROBERT W. HONDEVILLE, Turlock Irrigation District  
ED JEFFERS, Modesto Irrigation District  
DRAKE S. JOHNSON, Southern California Edison  
STANLEY K. KATAOKA, Pacific Gas and Electric  
DENNIS M. KEANE, Pacific Gas and Electric  
THOMAS S. KIMBALL, Modesto Irrigation District  
CHRIS KIRIAKOU, Oakdale Irrigation District (TID)  
JACK KRIEG, Modesto Irrigation District  
WILLIAM V. MANHEIM, PG&E  
RICK MARTIN, South San Joaquin Irrigation District  
CHRISTOPHER J. MAYER, Modesto Irrigation District  
WAYNE MAYS, Portland General Distribution Services  
JEFFREY A. MEITH, Law Office of Minasian, et al.  
ROBERT B. MOUNT, Fresno Irrigation District  
RICHARD R. MRLIK, Power Exchange Corporation  
ROBERT MUSSETTER, Enova Energy Management  
JIM PROVOST, Provost & Pritchard, Inc.

**ALSO PRESENT**  
Continued

DUANE G. RADKE, Portland General Distribution Services  
DOUG RAYNER, Laguna Irrigation District  
TED RIEGER, California Energy Markets  
SCOTT T. STEFFEN, Modesto Irrigation District  
JIM TRUDEAU, Power Providers  
JEFF VAN HORNE, Henwood Energy Services, Inc.  
DANIEL G. VINK, Lower Tule River Irrigation District/Pixley  
Irrigation District  
GARY WIENS  
BRUCE WILLIAMS, San Diego Gas & Electric  
THOMAS H. WILLOUGHBY, PG&E

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P R O C E E D I N G S

**PRESIDING COMMISSIONER ROHY:** Good morning and welcome to the Irrigation Committee hearings. And this is an informal hearing as I'm told, and I'd like to introduce the people on the dais.

I'm David Rohy, Presiding Member of the Irrigation Committee for the 1890 Implementation. To my right is Jan Sharpless, Commissioner Jan Sharpless, Second Member on the Irrigation Committee. And to my far right is our new Commissioner, Commissioner Bob Laurie joining us here, and welcome.

**COMMISSIONER LAURIE:** Thank you, Commissioner.

**PRESIDING COMMISSIONER ROHY:** And Laurie Ten Hope is Commissioner Sharpless' advisor. And to my left is Bob Eller, my advisor. And in the middle here is our Hearing Officer, Mr. Gary Fay, who will be conducting the hearing today.

I'd like to just give a short introduction before I turn it over to Gary and comment that first of all welcome to all of you folks who have come here today. This will help the Committee to resolve some of the issues that we have in the evaluation of your applications, and we also have had a very strong message from you that expediting this process is very important. So your being here today will help that process.

As you're aware, the 1890 requires that the irrigation districts submit the application by January 31, and the applications you see mounds of around the room here were submitted. Prior to that, though, we did hold a hearing on October 16, 1997, en banc, to discuss how we would approach this problem, the solution rather; and then in November 5 in Merced, California, we had a hearing, workshop, where all of you came or many of you came to discuss the basis of how the applications would be handled.

In December 9 the Committee released a draft application instructions, received comments back from you, and on December 24 issued our final instructions for submitting the applications.

On January 31 we received 12 applications from irrigation districts seeking CTC exemptions totaling 194 megawatts or thereabouts.

The purpose of today's hearing is obviously to receive comments and allow the Committee to ask questions of irrigation districts and the affected investor owned utilities regarding these applications. The Committee intends to issue its proposed decision on the allocations in early March, and this decision will be open to public review and is currently planned to be heard by the full Commission at the business meeting on March 19.

At this point I'd like to ask Commissioner Sharpless if she has any opening comments.



**COMMISSIONER SHARPLESS:** I have no comments, thank you.

**PRESIDING COMMISSIONER ROHY:** Commissioner Laurie, would you like to make any comments at the beginning?

**COMMISSIONER LAURIE:** No, Mr. Chairman. I'm here to listen and become educated. Thank you for the opportunity.

**PRESIDING COMMISSIONER ROHY:** Thank you. Then, Mr. Fay, would you begin the process here?

**HEARING OFFICER FAY:** I'd like to begin by introducing the members of the Commission Staff that have been detailed to the Committee in this case to help. And that's Jim Hoffsis and Linda Kelly at counsel table, also Dick Ratliff and Erik Saltmarsh are with them from the General Counsel Office. Most of the questions today will, on behalf of the Committee, will be asked by Jim and Linda.

Just like to state that the purpose of today's hearings is to receive comments on the applications as was set forth in the notice for this hearing. Each party will have an opportunity to address to the Committee. However, to ensure that we can finish today, we ask that applicants and other parties not repeat or summarize comments already submitted in writing.

Other interested members of the public will have an opportunity to address the Committee at the end of each applicant's section. If necessary, however, the Committee may

need to set time limits on comments.

The agenda that was set out in the lobby was set up to go applicant by applicant. And what we'd very much like to do is follow that order and have Jim and Linda first ask questions of the applicant on behalf of the Committee, and then other parties may ask questions through the Committee directed at the Chair regarding that particular application.

We'd also like to hear from relevant utilities at that time, and then give the applicant an opportunity to wrap up with any closing remarks, and then actually be done dealing with that particular application.

So we'd like to get started then. Are you folks ready to begin with San Diego?

**MS. KELLY:** I'd like to start.

Did everybody get a copy of this? What this is is that Staff has gone through the applications and by district, by year, tried to assess what the allegation is specifically that you've requested. And we had some questions where the question marks are, and we do have questions for those irrigation districts about this. So when you come up we will ask you a question if you just clarify this for you, we'd like to know specifically on the record what you are requesting.

If there is any other errors that we haven't seen or we've inadvertently misstated what you intended, please also let

us know about that. Okay?

I also want to preface before we start asking questions for everybody to bear with us. If you think that we're asking a question that you've answered, it could very well be the case; but we might have missed it or sometimes things are in different parts of the application.

And so our intent is just try to understand everything that you said, and, again as I said, even if you have answered this question you feel in the application, please just point us to the right place. We might have missed it, and we're just trying to understand all the information that you're putting forward. Okay?

**HEARING OFFICER FAY:** Excuse me, Linda, before the questioning begins I'd just like to add that it is our intent to respect the requests for confidentiality while they're under consideration by the Executive Director. And so obviously we don't want to expose any of that information until a ruling has been made.

Therefore, if one of the parties feels that inadvertently some of the questioning has gotten into a sensitive area, they should indicate to us or approach the bench and explain the problem, and we'll try to rephrase the question in a way that can help build the record without revealing any trade secrets.

**MS. KELLY:** Do you want to do it, Gary, each person

just come up, or is somebody here from Santa Fe, San Dieguito?

**HEARING OFFICER FAY:** Is anybody here from San Dieguito and Santa Fe Irrigation District?

**COMMISSIONER SHARPLESS:** It might be that they're on their way, and if no one is here to speak on their behalf at this point, maybe we would want to put them in a lower slot, come back.

**PRESIDING COMMISSIONER ROHY:** If they don't appear today and you have questions that you'd like to get on the record, we would like to have you put them on the record for us.

**MS. KELLY:** Then we'll go back to Palmdale. It's not Palmdale. San Dieguito.

Okay, then the next irrigation district on the agenda is Palmdale Irrigation District? There's nobody here from Palmdale?

**HEARING OFFICER FAY:** Is anybody here from Palmdale Irrigation District?

**MS. KELLY:** So we'll go back to them as well.

Pixley Irrigation District. We'll just do Pixley first.

**MR. MRLIK:** My name is Richard Mrlik. I'm with Power Exchange Corporation, and we work with Pixley Irrigation District in putting the application together. And Dan Vink here is with Pixley Irrigation District. He's taking the place of Roger Rob, the General Manager, who was not able to attend.

I just to start out I have a general question in how are we going to proceed? Are you going to ask questions, or do we

address specific comments that were made?

**MS. KELLY:** You could probably just have a seat. Would that be best, and then we could --

**HEARING OFFICER FAY:** Yes, please, have a seat with your materials, get comfortable.

Jim and Linda will ask questions for the Committee, and there may be some other questions from the dais. Then we'll allow other parties to ask questions, and then give you an opportunity to summarize at the end.

**MS. KELLY:** Pixley was one of the irrigation districts we were still a little unclear about what the exemption that you were asking for in each year. Could you clarify that for us?

**MR. MRLIK:** Yeah. In Pixley the, if you turn to page 13 of the application where the subtitle is "Load Specific Information," you'll see annually we're showing 10 megawatts. What we had written down there was the minimum load that we requested exemptions for.

Pixley actually is seeking to have 15 megawatts allocated. And in following the allocation process that would be three megawatts a year, and at a minimum two megawatts a year.

**MS. KELLY:** So it would be you're asking for 10.

**MR. MRLIK:** We're asking for a maximum of 15. That's the amount in which Pixley, the maximum amount in which Pixley feels that it can serve and has the water pumping load, the

requisite amount of water pumping load.

**MS. KELLY:** If you were to get 15, though, you would want them in the same increments.

**MR. MRLIK:** Three megawatts a year.

**MS. KELLY:** Okay. All right.

The next question is we were wondering have you done a feasibility study to determine if this project in the long term and the short term is going to be feasible for you to go into the retail electricity business? We just wanted to have a sense of your view into the future.

**MR. MRLIK:** The answer is yes.

A little history, Power Exchange performed a very comprehensive feasibility study for Eastside Power Authority which is a group of irrigation districts in that same area. That study in its completed form cost several hundred thousand dollars.

We didn't envision that an irrigation district would be willing nor should be willing to pay that kind of money for a very complete detailed study. So we did a fairly complete feasibility study that indicates that, yeah, it is economically viable for them to get in the retail business only if CTC exemptions are awarded.

**MS. KELLY:** And this study was done for Eastside, but you're saying that the --

**MR. MRLIK:** No, we did it individually for Pixley as

well as Lower Tule River.

**MS. KELLY:** Now this feasibility study was presented, I assume, to your board? And did the board --

**MR. MRLIK:** It was presented to the general manager.

**MS. KELLY:** To the general manager. And was there approval by him and then a subsequent approval by the board? And what I'm asking or trying to get to is is the commitment of the irrigation district and the way that we can assess the commitment of the irrigation district is to see whether, you know, these proposals have been put to the, well, to the general manager, to the board, to the community.

I'll be asking this question of everybody. It's our feeling that the more commitment there is to do this, that is, you know, done in a broad public way, that does, I think, address some viability.

**MR. MRLIK:** The board is committed to get in the power business.

**MS. KELLY:** Have they had a vote on this?

**MR. MRLIK:** They have not had a vote on it. Maybe, Dan, you can answer that.

**MR. VINK:** I think you're talking about the detailed feasibility study. That was done for Eastside Power Authority and the geography of the southern Tulare County and Pixley sandwiched in by members of the Eastside Power Authority. So while we didn't

do a detailed feasibility study for Pixley, Richard and Power Exchange took that information that they garnished from the Eastside experience and put it to Pixley, which is similar pumping loads, similar crops and so forth, and we share common growers, we share common interests.

And you can see by our application that within a three-day period under the gun these growers responded. And the board is committed, you know, they haven't gone and voted it and said to go ahead with the power project, but they have said go ahead with the study. They're committed to that, and they're committed to getting in the power business as Richard said. They're not going to make a decision on something that they don't have all the details on yet.

**MR. MRLIK:** What the feasibility study showed, if you turn to the exhibit, Table 7-1, the answer that we were looking for was: What does it cost? What is Pixley's cost in serving electricity to loads that were contacted and indicated that they wanted to receive electric power service from?

And we engaged an independent engineering firm, paid for an engineering study to hook up to those loads, and as you can see the cost to serve their customers depended largely upon the amortization schedule of and paying for that distribution system.

If we amortized the cost of the distribution system over five years, the cost was 7.8 cents. If it was amortized over 10



years, the cost was 6.27 cents. If it was amortized over 20 years, the cost was 5.51 cents. The basis for the interest on that and the financing plan was prepared by Stone and Youngbred, a very large bond house in California.

So they compared those numbers to the average cost or the average price of Edison service in the area, which was above nine cents, and so from that they've determined that we can economically get in the power business. We'll have to spend a little bit more money to, I think, to refine these numbers, but as we found at Eastside the refinement is not a magnitude of 30, 50 percent, it's a magnitude of 5, 10 percent.

**MS. KELLY:** We're not familiar with, we've read the description of your organization, when you were formed in '94, '95, but we're not familiar with your background. We know that you've been involved with Eastside. Actually, that's all we know.

Have you built or been active in California in, number one, constructing, financing any other projects other than the Eastside projects? I want a general sense of your experience.

**MR. MRLIK:** Much of the background in Power Exchange is in the independent power industry. Many of our members have been involved with building, financing, developing co-generation and private power projects which are a little bit more involved than building a distribution and transmission system.

The technical aspects of power projects I think are a

little more cumbersome. The marketing aspects aren't quite as involved as a transmission and distribution system.

So, technically, yeah, I mean all, you build a power plant, you need to build a substation, you need to build some transmission lines, etcetera, etcetera. So we have a lot of experience in that area.

**MS. KELLY:** Which members have been involved in the construction and building of power plants you indicated, or you've built power plants?

**MR. MRLIK:** Not as Power Exchange, but as the individuals involved with Power Exchange have.

**MS. KELLY:** Those are?

**MR. MRLIK:** I think I'll take the Fifth.

**MS. KELLY:** Okay. Thank you.

**MR. MRLIK:** But I can certainly provide that in a confidential manner. That's not a problem.

**MS. KELLY:** We're just looking to, or Pixley hasn't got as much experience, has no experience probably in this area, and we're looking to the people that will be working with the irrigation districts. It's important for us to understand, you know, what their experience is.

**MR. MRLIK:** Well, except the general managers, the management of Pixley are, and I should say since Lower Tule and Pixley have the same management, Lower Tule owns a hydroelectric

power project, success hydro project, and that since the managers are the same they have been engaged in the power business.

**MR. VINK:** I might note as well that Pixley does have a contract with the Western Area Power Administration for two megawatts of power that we wheel to our pumping plants down in Bakersfield. We're about a 12 percent capital owner on a cross-valley canal. So we do have, while we don't have experience in the distribution of it, we do have experience in the power business. We have contracts with PG&E to wheel that power and so forth.

**MS. KELLY:** That's the kind of information that we're trying to get to add to your application.

**MR. HOFFSIS:** I have one question. Your application on page 12 says: load was regarded as agricultural if it currently receives agricultural rates from SCE.

And then on Table 4-1, which we'll be careful not to name any names there, but there's a list of potential customers. Do I take your statement that it was regarded as agricultural if it currently receives agricultural rates to imply or suggest that all of those customers there are indeed currently now receiving agricultural rates from Edison?

**MR. MRLIK:** Well, most of the customers listed there have multiple meters and are taking service at variety of different rates. So the short answer is, yes, all of them do have

some agricultural pumping load.

I mean traditionally or typically in that area a farmer will have pumps and may have other facilities that aren't water pumping, but nevertheless he'll have a hundred or 200 different meters. And so what we did was separate out the bills that were on ag pump schedules or on agricultural schedules and assumed that they were pumping.

**MR. HOFFSIS:** I see. So the load that you've indicated here as pumping, at least that portion of the load is indeed currently getting an agricultural tariff.

**MR. MRLIK:** Yeah, and they will say next to them 10 horsepower, 5 horsepower, 7.5 horsepower. So we didn't go out and physically inspect every site, but there was sufficient indication as to suggest that, yes, this was an ag load. We assumed it was.

**MR. HOFFSIS:** And this is a question that we'll touch on later as well, but since you mentioned horsepower, the agricultural pump ratings that are shown here in kilowatts, do I take your statement then to suggest that those were conversions of some sort from horsepower ratings?

**MR. MRLIK:** Well for instance, Pixley has over 30,000 horsepower of installed water pumps which translate out to about 22 megawatts of installed pumping load. That's max load. Using the methodology to determine the average load it calculates out to about 14 megawatts. That's of just water pumping load in the

area. So it would essentially apply the same methodology.

**MS. KELLY:** Since the applications for exemption are over subscribed, in the event that your district did not receive the allocation that you requested, is there some threshold number of an exemption that would make your project or your plan viable or non-viable?

**MR. MRLIK:** No. The current plans, they're clusters of loads, which the current plans would accommodate. So we have groupings of four megawatts here and a couple megawatts over there, so I think 15 megawatts would be ideal. If it was less than 10 megawatts, that's fine.

Ten megawatts is a nice number because the economics work out great there. Because when you buy substations and other equipment like that, a 10-megawatt substation on a unit cost basis is more cost effective than a five-megawatt substation.

**MS. KELLY:** And if you were to get five megawatts, that you would go forward with this project with or without the additional five megawatts of exemption, that it would still be cost effective for you.

**MR. MRLIK:** I think I'd rather talk to Pixley's board and answer that.

**MS. KELLY:** Okay. You have a threshold.

**HEARING OFFICER FAY:** We don't want to suggest that there's an overriding of the eight megawatt minimum, though, do

you?

**MS. KELLY:** No, I realize I went too low on that one. But you do have a threshold.

**MR. MRLIK:** Eight megawatts is fine. I mean that's the basis of go/nogo.

**MS. KELLY:** Okay. Eight megawatts.

**MR. MRLIK:** Eight megawatts is fine.

**MS. KELLY:** Thank you.

**HEARING OFFICER FAY:** Does the Committee have any other questions of Pixley?

We'd like to ask if any of the other parties wish to ask Pixley questions. Does anybody else have any questions, comments on the Pixley application? Does SCE have any comments on the Pixley application?

Fine. Very good. Do you wish to make any wrap up comment?

**MR. MRLIK:** Well, I just want to respond to a couple of the comments that were in writing. One of the questions was that Pixley's cost estimates do not include the cost of an interconnection facility.

And our cost estimates do. There's a 10-MVA substation that would interconnect with Edison. So I mean when you're looking at a lot of applications, I can understand.

The other comment was that we did not include a cost for

looped line service. And that's true, but I think the answer there is loop line service is not currently provided to all SCE customers, nor is it currently provided to all PG&E customers. So I don't know why that's a pertinent point.

And probably most pertinent was a comment that we did not approach Edison for data requests. And that's true. And the reason for that is at Eastside we had not had good experience of getting information from Edison, and understandably so. I mean we were a competitor, and I don't think anyone's in the business to help their competitor.

So as an example we tried to get single line drawings from transmission and somehow ended up with an attorney at Energy Solutions, and it was quite a tap dance. And in the interest of time we had learned how to get that information directly from customers, and that was the technique that we employed in getting information in these studies.

So we just took a business approach and said realistically we don't think we'll get the information in time. I think it's an adequate business ploy to stall the dissemination of that information. And so we went and got it directly from customers.

**COMMISSIONER SHARPLESS:** If I may, I have a question or two perhaps. It's going to start out as a timing question actually.

The Pixley Irrigation District Board has not yet adopted a resolution to go forward on this project. I believe this gentleman indicated that they won't sign on the dotted line until they see all of the details?

**MR. VINK:** They need to see more. They need to have more information before they're going to commit to anything.

**COMMISSIONER SHARPLESS:** Okay.

**MR. MRLIK:** The key piece there is the allocation.

**COMMISSIONER SHARPLESS:** This is the problem also with this Committee, I think, in judging viability. That we need to have a fairly strong indication of commitment if, in fact, the Committee is going to evaluate varying proposals based on viability. Viability is the key term in the legislation.

So I guess my question would be: What is the timing? What are you looking at? What more details does the irrigation district board need in order to be satisfied that this is a venture that is feasible and economically sound?

And once that decision is made, how much more time is needed for construction of the various facilities that might be needed to deliver the power to your customers? Can somebody answer that question for me?

**MR. VINK:** I'll let Richard speak to the timing in terms of the facilities. But as far as the commitment goes by the Board of Directors, the board's wholly committed to seeing that it



can do anything possible to reduce the power rates to its growers and landowners in this district.

When I say details, it needs more details, what Rich had alluded to probably the biggest detail it needs is the allocation. It needs the allocation before it's going to invest a whole lot more money into this project.

**MR. MRLIK:** That's central to all these plans.

**COMMISSIONER SHARPLESS:** Is the allocation based on the premise that without the allocation you will not be able to offer power to your customers that will be competitive with the current provider? And if that is in fact an issue, what happens in four years?

**MR. MRLIK:** Well, when we ran through the feasibility study, in over a five-year amortization the project should be paid off. At least for the first component of it. So the success and viability of this project hinges entirely on being granted an allocation.

**COMMISSIONER SHARPLESS:** So you need an allocation, you need a minimum of eight megawatts, although it's going to be spread, those megawatts are going to be spread over a period of time, and based on the assumption of whatever you think the market price of power is going to be, and you've got some quotations of that, and the operating costs or the construction costs of new facilities, you think you can amortize this project and get a

payback within four years?

**MR. MRLIK:** Within five years.

**COMMISSIONER SHARPLESS:** Within five years.

**MR. MRLIK:** That's for the first allocation. The second allocation they'll be outstanding, there'll be a year of outstanding monies. The third year allocation there'll be two years of outstanding.

But the viability of this depends entirely on not paying transition charges. I mean that's go/nogo. If they don't get an allocation, they won't go. That's clear. If they get one, they'll go.

**PRESIDING COMMISSIONER ROHY:** I think that was your question. The second part, will they go.

**COMMISSIONER SHARPLESS:** It is circular.

**MR. MRLIK:** Do you want that in writing from their board?

**COMMISSIONER SHARPLESS:** Well, that was one of the things that we asked for. The more commitment that we have, of course we had a cut off date of January 31 and we're now down to the end of the process to try to do the evaluations, so today is the day that we get as many details as we can on which we can make these decisions. And these decisions, of course, are going to be in some cases subjective because the viability issue is going to depend on some judgments in these applications.

We have varying degrees of detail. So the more detail we had the better upon which the Committee can make its decision. So therein lies the dilemma. But thank you for your response.

**MR. MRLIK:** Can I just make one other comment?

**PRESIDING COMMISSIONER ROHY:** Certainly.

**MR. MRLIK:** Pixley and Lower Tule River have spent quite a bit of money over the last five years in their participation at the Eastside Power Authority. And I think they have a long standing commitment to reducing power costs. Now I think that in itself is a better demonstration than a letter from the board or anything else that we can provide you today.

They've been at this for a long time in first seeking to get WAPA power, in fighting the battle with Edison or negotiating with Edison to try to get that WAPA power wheeled to their system or wheeled to them.

And so they've been at this a while, and that all cost a lot of money. They've engaged engineers and consultants, and it's not a non-trivial process. So this is an extension of their commitment to get in the power industry, and this is a unique opportunity for them to get in the power industry. And they understand that.

**COMMISSIONER SHARPLESS:** Would they have attempted to get into the, to go the next step and to provide as a retailer power to their customers were there not a CTC?

**MR. MRLIK:** Oh, yes, yes. If there was not a CTC, they could -- because they could compete with Edison then. They could not compete Edison if they had to build a distribution system, pay for it and pay a CTC. They wouldn't be competitive. They know that. That was the purpose of our study.

**COMMISSIONER SHARPLESS:** Okay, thank you.

**PRESIDING COMMISSIONER ROHY:** Are there further questions on the Pixley application? Hearing none, let's go on to the next.

Lower Tule River Irrigation District.

**MS. KELLY:** I have one question for you in your Lower Tule. On page one of your application you refer to the process of getting relief from the restrictions of AB 1890. We see you as being covered under another section of 374. Could you explain what you mean by "getting relief," and how you would no longer be covered by that's, you know, the section on Eastside. Because Lower Tule is a member of the Eastside and Southern San Joaquin Joint Powers.

**MR. VINK:** In terms of the Eastside Power Authority, the language in AB 1890 refers to the Eastside folks receive a benefit from district loads that were connected, was it prior to December 30 or '95?

When Eastside was formed several years ago, AB 1890 was not the anticipated end result of that. The district was a

founding member of Eastside. The original purpose of making better use of its WAPA allocation within the district, and as you know we all know the end result of AB 1890, or Eastside, one of the things that resulted from that was the language in AB 1890.

That puts Lower Tule River Irrigation District in a unique position because we're the only Eastside member that doesn't have a district load. So by not being allowed to participate in 110 megawatts we would probably be the only irrigation district in California that wouldn't be eligible for a CTC exemption. Because we're not eligible by the fact that we don't have a district pumping load, and that's the reason we're trying to extricate ourselves from that AB 1890 language.

And we have been working. This is not something that we just pulled out of the hat recently. We've been working since October with the Association of California Water Agencies, various state legislators and with Michael Boccadoro on trying to do something to address that matter.

I mean it was a great benefit to all the Eastside Power Authority members, and we shared in their success, but unfortunately we don't share in the financial success.

**MR. MRLIK:** Can I just add to that?

The AB 1890 provided exemptions to all the Eastside Power members who had water pumping loads to their water pumps. And so they were then able to buy power without paying CTC for the

purposes of their pumps.

Now, Lower Tule River does not have any of its own pumps. It has one 20-horsepower lift pump that it uses part time in wet years. So it essentially receives no direct benefit from AB 1890. And because it's a member of Eastside, that precludes it, the current form of AB 1890 precludes it from participating in the 110 megawatt set aside.

So they began, they sought relief from that because they're not getting any benefit from their association with Eastside, and they're hopeful that in the clean up legislation they'll be an exception to Lower Tule River. The basis being they don't receive the direct benefit that the Eastside members do.

**MS. KELLY:** But absent that clean up legislation, do you agree that Lower Tule, as the law is now written, is not eligible for the 110?

**MR. MRLIK:** Correct.

**MR. VINK:** But knowing that now you see it was not our intention to double dip in this legislation.

**HEARING OFFICER FAY:** Any further questions? Any further questions, Linda?

**MS. KELLY:** Oh, I'm sorry, no.

**HEARING OFFICER FAY:** Okay. Any questions from the Committee?

All right, are there any comments from any of the other

parties? Go ahead.

**MR. MANHEIM:** William Manheim from PG&E.

It's our understanding that the Lower Tule District straddles both the PG&E and Edison service territory. So our concern is that if awarded an allocation you may serve some customers that are in the PG&E service territory. And in that case it seems that they should, the megawatts served, should count towards the PG&E allocation.

So our general comment is it seems like Lower Tule should be listed as both an SCE and PG&E potential irrigation district serving in those zones.

**COMMISSIONER SHARPLESS:** Is there a way to differentiate those customers?

**MR. MRLIK:** Over probably 95 percent of the load is Edison, and there is probably about five percent of what we saw was PG&E. So that's a valid point.

**COMMISSIONER SHARPLESS:** Is there some way we could nail that down?

**MR. MRLIK:** I couldn't offer.

**MR. VINK:** You want like an acreage nailed down? How many acres are in PG&E? Or you want kilowatts or customers?

**COMMISSIONER SHARPLESS:** Well, if in fact such an allocation were made I'm wondering how the Committee would divide the allocation between PG&E territory and Southern California

Edison.

**MR. VINK:** Was the proposed distribution system, I don't know if --

**MR. MRLIK:** I think we, our strategy, was to just go in the Edison load because there wasn't eight megawatts in the PG&E territory. So we kind of approached it that way as to where could we meet the minimum requirement and kind of ignored, you know, the section that was PG&E. So we really didn't address the issue fully.

**COMMISSIONER SHARPLESS:** So if an allocation was given as requested and it was given in the Southern California Edison area, that would preclude you from tapping PG&E customers? Question? I don't know, question, anybody? Got an answer?

**MR. HOFFSIS:** I would think so.

**MR. MRLIK:** Sounds reasonable.

**COMMISSIONER SHARPLESS:** Sounds reasonable. Good.

**HEARING OFFICER FAY:** If you're comfortable with that, it simplifies, obviously simplifies the allocation process.

**MR. VINK:** We wouldn't, I don't anticipate then we would use that. If that was the language, then we wouldn't use that allocation to serve PG&E customers then, no.

**MR. MANHEIM:** Just a suggestion.

**COMMISSIONER SHARPLESS:** I think you just got more than you wanted.



**MR. MANHEIM:** It seems like the Commission could just condition its allocation on use of those exemptions only in Edison service territory.

**MS. KELLY:** And that's where, in fact, you qualify with the eight megawatts, is solely in the Edison.

**MR. MRLIK:** The vast majority of the load is in Edison's territory.

**MS. KELLY:** Do you have eight megawatts in Edison?

**MR. MRLIK:** Yes.

**MS. KELLY:** Okay.

**MR. BOCCADORO:** Michael Boccadoro on behalf of the Ag Energy Consumers Association.

The AECA represents the interests of about 40,000 growers in the State of California and about 50 water districts statewide, including Lower Tule and Pixley, and so we're here to some degree in support of their applications today.

I want to preface my remarks that the AECA doesn't have any direct financial stake in any of the applications before this board. And as a leading proponent of Section 374 and the primary drafters of that section our comments today on different areas are intended to try and shed some light on some of the legislative intent. Because I think in a lot of the proposals the legislative intent has gotten twisted to serve the interests of the various applicants. And hopefully we can help the Committee sort through

some of that today and shed some light on that.

I did want to comment in general about Southern California Edison's comments that they filed, and I'm a little bit surprised that they didn't seek to clarify them a little bit today because discussions I have had with folks at Edison who were involved in negotiations on AB 1890 their comments, their general comments at the beginning of their written comments, tend to smack of bad faith in terms of the overall deal that was cut on Assembly Bill 1890. Because they tend to go at the heart of the 110 megawatt allocation and suggest that it is bad for Californians.

I try and draw a comparison to that. It'd be it's sort of like the AECA getting up in front of the California Public Utilities Commission and arguing that the CTCs should be spread not only to the ratepayers of California but to the shareholders of California despite what Assembly Bill 1890 made very clear that the CTCs are going to be paid by the ratepayers.

So I'm very concerned about that general position that Edison has taken. They also seem to take a position that this is only for four years. It's not. These irrigation districts, and I've had conversations with Roger Rob over the years and more recently as they've sought to get into the energy generation business, they're in this for the long term.

It's not about four years of escaping CTC. It's about exercising authority they've had for a number of years to get into

the energy power business. And that's important to understand.

They're going to go well beyond the four years. And I would guess that as they sign agreements with their customers for service that they're looking to sign agreements that cover the length of their amortization period for the capital facilities they're going to be putting in place. They're in this for the long term.

The intent of the legislation was pretty clear and is as some parties have suggested it wasn't necessarily to just help those existing irrigation districts that are already in the business expand in California. In fact I think it was the contrary of that. I think the intent of the legislation primarily was to give the opportunity to the irrigation districts who haven't exercised their authority in California, such as Lower Tule and Pixley, to get into the business.

The irrigation districts are extremely important to the rural and agricultural communities in California because they provide competition in areas where we not only see high generation costs, we hear so much about that, and the debate in California has really focused on generation. And the restructuring deals mostly with generation.

But one of the things we're seeing as rates get unbundled is that distribution costs in rural areas like Pixley and Lower Tule are extremely high as well. And the irrigation

districts represent an important check on that continuing monopoly power of the utilities.

And so I think the Commission's job in the Southern California Edison territory is much easier because the megawatt allocations being sought do not greatly over subscribe the megawatt allocations that are available in Edison's territory. And so I think it's a unique opportunity for the Commission to give these irrigation districts an opportunity to get into the power business. And I think they are committed, and I think you'll see that as such that they will move forward.

And if the Commission is concerned about that, one way they can address that is to put some sort of time period on the allocations that if they go unused that they revert back and can be re-allocated to another district at a later point in time.

I think that's clearly within the language of AB 1890, and they gave very broad authority to the Commission to allocate these so that they're used most effectively. And I think in the Edison territory that job's much easier because of the lack of over subscription.

**COMMISSIONER SHARPLESS:** I'd just say that I appreciate that clarification. I don't know if you've had an opportunity to see the applications, but certainly the spirit of competition is woven throughout them.

I think the difficulty the Committee has, of course, is

that there are some that seem very speculative. And to determine viability on a very speculative application is problematic. And sorting through that to make a four-year reference such as I did, did not go so much to the issue of providing an incentive only for four years but for providing viability beyond four years.

**MR. BOCCADORO:** And I was referring more to Bruce Foster's reference of four years in his comments on, not your specific reference.

I think the important thing to understand there, too, the viability isn't dependent on just escaping CTC. One of the things we've got to remember about CTC is it isn't going to go on forever.

**COMMISSIONER SHARPLESS:** Right.

**MR. BOCCADORO:** It is going to be gone at the end of the transition period. For the most part. There will be some lingering CTC, what was referred to as the dog and the tail, and the tail will be lingering in the debate.

But these districts will be very competitive, and we think not only on the generation side of the business and being able to buy power directly, but we think they're going to be at least 50 percent less on the distribution side of the business in the existing utilities as well.

And so the benefits are going to, to these areas, can be substantially increased because the distribution rates in the

rural areas are particularly high.

**PRESIDING COMMISSIONER ROHY:** Just to reiterate the purpose of today's hearing is the time that the Legislature gave all of us for the applications to be filed was necessarily short because the allocations do start January 1 of '97.

However, having said that, some applications contained a lot more information for the Committee than others to make the decision on, and we have the difficult task of filling in holes or bridging over them. We can't fill them in.

**MR. BOCCADORO:** Understood. And I can appreciate that.

The time frame that was included in AB 1890 was probably our doing in that we wanted to make sure that the allocations were utilized to the fullest extent possible and wanted to minimize, because it is a short time frame, we're talking five-year transition period here, four-year transition period, and we wanted to minimize the time frame. And we may have cut it off a little too short, but we wanted to make sure that the allocations were out there.

But I want to reiterate the point that the to the degree that new irrigation districts can get in the business in California and not just expand the existing ones, I think the state and the rural areas and the agricultural community in California, which was the intent of Section 374, will be more

fully served.

Thank you.

**HEARING OFFICER FAY:** Thank you.

Are there any other comments on the Lower Tule River application? Please.

**MR. HAUG:** Good morning. My name is Raymond Haug. I'm a Project Manager with Southern California Edison Company in our Customer Solutions Business Unit. I'm speaking on behalf of Edison to emphasize our position in this important matter.

We're concerned on the comments made by Mike Boccadoro that perhaps they have been misinterpreted, and we feel that perhaps the way we wrote it may have been to that misinterpretation. And we're not backing away from the commitments we made in the legislative process last year.

What we do is we urge the Commission to ensure that all the irrigation district applications satisfy the criteria specified by the Legislature in Section 374(a)1 and instructions that you provided to the districts.

We have provided written comments specifically regarding these applications located within Edison's territory and those within other IOU's area where we believe based upon the public information that's been provided to us they do not appear to satisfy these requirements.

We thank you for your opportunity to provide comments.

**HEARING OFFICER FAY:** Any other comments on the Lower Tule River application?

All right, do you have a wrap up?

**MR. VINK:** Well, I don't know if you ever got past the Eastside issue with Lower Tule, but just to reiterate what Richard talked about earlier Lower Tule is already in the power business. And we have a hydroelectric plant on Success Dam on the Tule River that the board there, you want to talk about commitment, the board there put a substantial capital outlay into that. And Lower Tule's the part owner and primary operator of that power plant.

So in addition to that Lower Tule also has a two megawatts of the WAPA allocation that Pixley has. And when you talk about Lower Tule and Pixley, you know the two are virtually interchangeable. The management is interchangeable. A lot of their landowners and growers are interchangeable, too, so just to close with that.

**HEARING OFFICER FAY:** Okay. Good. Then that concludes our review of the Lower Tule River Irrigation District application.

We'd like to ask again if anybody --

**MS. TEN HOPE:** Wait a minute.

**HEARING OFFICER FAY:** I'm sorry.

**MS. TEN HOPE:** The last comment just triggered a question. When you said that the landowners are in common between



both districts and the Pixley application used Lower Tule header and the questions were all in regards to Lower Tule customers, do you have the load to supply both of a Pixley allocation and a Lower Tule, or are you counting on one or the other? Because there were only customer, the only customer intent letters came from Lower Tule.

**MR. MRLIK:** That was a mistake. Lower Tule and Pixley are the same office, so they just sent out one customer interest notice. And the loads are separate. Pixley loads, the loads listed in Pixley are in Pixley Irrigation District within their boundary, and the loads in Lower Tule are within the Lower Tule River boundary, Irrigation District boundary. But that was a mistake on the letter of interest that was sent out.

**MS. TEN HOPE:** So you did separate letter of interest for Pixley that weren't reflected in the application?

**MR. MRLIK:** Yes.

**MR. VINK:** We have the same management so when Richard deals with us, you know, he just deals with Lower Tule's office. And because of these applications were put together in the haste that they were, some of those little technical details got overlooked. We should have sent them out on Pixley letterhead. Pixley has its own board of directors, its own office; they just share, have mutual managements.

**HEARING OFFICER FAY:** Anything further then? Okay.

Then that concludes our review of Lower Tule River Irrigation District.

And we'd like to ask if anybody is here from Palmdale Irrigation District? I see no indication.

Does anybody wish to comment on the Palmdale application? All right, then that concludes our review of the applications from the irrigation districts within Southern California Edison service area.

I'd like to ask again if anybody is here from the San Dieguito and Santa Fe Irrigation District? I see no indication.

Is anybody here from SDG&E who would like to comment on that application?

**MR. WILLIAMS:** Good morning. Bruce Williams, San Diego Gas and Electric.

We have submitted written comments, and we don't have really too much to add beyond those other than we share the sentiments expressed by Edison this morning that we are and have been a participant during the legislative process during which AB 1890 was crafted and ultimately adopted by the State Legislature.

We do support all the facets of that piece of legislation, and to the extent that irrigation districts seek exemptions within our service territory, our aim is to ensure that their applications meet the criteria set forth by the legislation and by this Committee in this Commission. Otherwise we are here

to support your efforts.

Thank you.

**HEARING OFFICER FAY:** Thank you.

Are there any other comments on the San Dieguito and Santa Fe application? I see no indication so that concludes our review of the SDG&E service area application.

We'd like to next move to the Modesto Irrigation District application.

**MR. KIMBALL:** Good morning. My name is Tom Kimball. I'm representing the Modesto Irrigation District. And sitting beside me is Ed Jeffers our Engineering Manager.

**MS. KELLY:** The first question I have is concerning the definition of agricultural load. Just to go over the definition that is in the application, load is regarded as agricultural if it currently receives agricultural rates from PG&E or Edison or can demonstrate it is eligible for agricultural rates under either the PG&E or Edison agricultural schedules.

In your application you identify a load as agricultural even though it does not, you indicate, qualify under those tariffs. Could you just briefly summarize your justification and give us an example. What I'd like to do is have a discussion about this.

**MR. KIMBALL:** I think we've had this discussion a couple of times before in terms of what constitutes ag pumping.

And I think we're in agreement more with probably Fresno's interpretation of what the term "ag pumping" is.

We feel that ag pumping as indicated by AB 1890, and this is our feeling, does not necessarily restrict an ag pumping definition into the rates of two investor owned utilities. We feel that the power pumps for ag purposes should be taken literally as in the bill. And if the pumping is used for any type of an agricultural purpose, we believe in the broad definition of that term and that it should qualify for those applications.

So in our application we've actually identified loads that meet the definition as proposed by the Commission for ag pumping, but we have also indicated additional load requirements based on a more broad definition of what ag pumping is, at least from our interpretation of it.

So, for example -- I'm sorry.

**COMMISSIONER SHARPLESS:** Along those lines, you know I think it was the Committee's interpretation that the ag pumping definition that we used was rather broad, and we excluded very little. So to have yet a broader interpretation imposed does leave us with questions about how much more can you extend into the term "ag purposes."

And maybe you were going to that by saying, for example, I, for one, would like to know how much further beyond Modesto went. I looked through the application. I might have missed it.

There's a lot of data here. I tried to go through most of it, but I wasn't quite sure how far you went in your definition.

Some people got fairly creative about how far you can extend an agricultural purpose through the processing functions. So perhaps you could be simple and clear that I can understand it.

**MR. KIMBALL:** I'll try to be simple and clear.

First of all, our application addressed both aspects. We took the literal definition that came out of the Commission and applied that ag pumping definition to loads that we could serve.

We also proposed an alternate definition that could be utilized if the Commission so elected based on, you know, input from us and other people as well because I know that was a sensitive topic with the irrigation districts.

But to give you an example, you know, a processor, for example, a food processor that can actually grow a commodity and process it in a vertically integrated business and have that processing, for example, count as ag pumping may be in a Southern California Edison territory and yet in PG&E that type of an approach is not allowed I think would lend itself to the argument that if processing is involved in an agricultural process and there's pumping associated with it, that it should be included as pumping for agricultural purposes.

And that's one area that we expanded out on.

**COMMISSIONER SHARPLESS:** But to that definition we

allowed in the PG&E area that Southern California definition. But as you've indicated it's for ag businesses that are, I believe, vertically integrated and not for those whose processes are done by various business enterprises.

And so your definition would not only include the Southern California definition for vertically integrated, but it would also include businesses, similar businesses that were separate enterprises?

**MR. KIMBALL:** Absolutely as part of the agricultural purposes. In other words, if they can do it and another entity can't, and the only issue is who owns the product, you know, to me that doesn't make a lot of logical sense.

And to further expand the definition, and I don't think we really did this as part of our application, but I think we agree with the concept, we know that the Commission's direction as it relates to refrigerant pumping was not included.

When you look at a facility that, you know, process, for example, bell peppers and a major portion of their load is associated with freezing those bell peppers and it's a pumping cycle, to me the definition should be expanded even broader.

And we agree with Fresno's interpretation of that. But that's just our opinion. As part of our application, we did not include that, but just by way of argument we think it should be.

**COMMISSIONER SHARPLESS:** You have two proposals,

both for the 40 megawatt. One with the Committee ag definition.

**MR. KIMBALL:** Yes.

**COMMISSIONER SHARPLESS:** And the other one with a broader definition.

What was confusing to me is if you use the broader definition and you keep the 40 megawatts, how does that impact the customers?

**MR. KIMBALL:** It impacts the customers you may potentially serve.

**COMMISSIONER SHARPLESS:** You can serve more varied customers in other words.

**MR. KIMBALL:** Yeah. If --

**COMMISSIONER SHARPLESS:** More industrial customers that have sort of an ag-like --

**MR. KIMBALL:** Yes. More processing customers that have an ag link versus maybe --

**COMMISSIONER SHARPLESS:** But I thought the real purpose is the gentleman who got up here and spoke of legislative intent and the importance of agriculture was to link it closer to agricultural than to industrial customers.

**MR. KIMBALL:** Well, I think AB 1890 basically spells out what it says, and it says pumping for agricultural purposes. And to me if it's an agricultural purpose and it's pumping, it should be counted. That's all I can say about it. I wasn't

there.

**COMMISSIONER SHARPLESS:** But that, you know, I mean people are extending that definition to some process that do seem closer to commercial industrial than agricultural.

**MR. BOCCADORO:** One of the really problematic things that the ag community has based is the varying definitions of what an agricultural customer is in California.

Both Edison and PG&E have defined the agricultural class customer to be so small that we now represent roughly about three percent of the load as a class of customers in California. Even though when you look at agriculture as a true industry and you look at the processing side of the business, which in many cases is vertically integrated in California as was stated, it's really much bigger than that.

And one of the reasons why agricultural rates are so high in California we have argued at the Commission is because they've defined us down to this really production ag. And I don't think that the intent of the Legislature was just trying to help that one little piece of production ag but was intended to help the ag industry in the rural communities, again where these irrigations serve.

I think the processing definition is problematic because you can have a very large family owned operation with a processing facility that's on an agricultural account, and you can have a



similarly sized facility, you know, and Gallo comes to mind, a very family owned business growing a lot of grapes, producing a lot of wine, and you can have a very small or a smaller privately owned processing facility that would be on a commercial and industrial account.

I don't think that's fair under the existing tariffs, and I would encourage the Commission to look at the broader definition because I think that it does fit within the intent of AB 1890. It was just to help the --

**COMMISSIONER SHARPLESS:** But you know, we're not excluding those people from the intent in 1890. What we're talking about is a 50 percent ag pumping and then 50 percent other.

And there is that other category, and for a very liberal interpretation one could argue that by doing a very liberal interpretation, you're making it more difficult on ag to get their ag credit. Because why go for ag. We'll just go for the industrial guys that are ag like.

**MR. BOCCADORO:** I agree there's an important balancing point you guys have to decide. My comments weren't suggesting, and my membership is mostly ag oriented and I'd be commenting against my membership if I was suggesting that you should grant it all to the industrial customers.

I was merely trying to point out that the definitions

that Edison and PG&E both use are problematic, and they really don't capture the ag industry as a whole. But I agree.

**COMMISSIONER SHARPLESS:** I can appreciate that. I think from my side of this dais it's the other equation, you know, to make sure that ag gets what ag is due, and that it just doesn't get two commercialized guys that say they're ag.

**MR. BOCCADORO:** I agree. There were some very creative interpretations of what is agricultural load in some of the applications. I don't think that necessarily applies to the processing applications though.

**PRESIDING COMMISSIONER ROHY:** I'd just like to comment that the Committee thought long and hard on the definition of this as a result of our public process. And speaking for myself and I believe that we had agreement here is we have a very broad definition as we published it in our instructions. And we felt that was more inclusive than some suggested, and, in fact, included a lot of processes that are out there.

So we came away after the instructions feeling that we'd been very broad in our definition. You are now extending our definition further, and that's where we're having problems.

**MR. KIMBALL:** Let me state that we're prepared, obviously, to accept any definition you come up with. We just propose an ulterior argument, you know, to the whole definition of ag pumping. We're prepared to build it and serve regardless of

what the definition is from our application.

**COMMISSIONER SHARPLESS:** Thank you.

**HEARING OFFICER FAY:** More questions of Modesto?

**MS. KELLY:** Yes. In Table 1 of your application you asked for eight megawatts in every year that we're offering them. If you were given more than eight megawatts in 1998 through 2000, would you be able to utilize them?

**MR. KIMBALL:** Yes, we would.

**MS. KELLY:** So this was your conservative. You can hear from other people they've asked for a minimum and a maximum. Even under the "now" definition again?

**MR. KIMBALL:** Yes, we feel we could serve it.

**MS. KELLY:** If we gave you, let's just hypothetically, if you were to get 15 in '98 all within the 40 range.

**MR. KIMBALL:** Additional?

**MS. KELLY:** Yes.

**MR. KIMBALL:** Yes, we feel we could. In fact as part of our applications we have commitments with cities to the north of us to actually build facilities in relatively short time frames.

We basically staggered these out based on what we feel the intent of the bill was. But if we could get additional allocations earlier, we could use them.

**MS. KELLY:** Up to 40?

**MR. KIMBALL:** Yes. Now, as part of our application we also indicated that if there is any other unused allocation that we would also apply for that. And that's not shown on your sheet here, but we did file application for that in the event there is any unused.

I know PG&E made some comments in their application or in their comments regarding the applications as it relates to unused allocation of that exemption. And our interpretation of the bill is a little bit different than theirs.

We don't think the intent of the Legislature was to allow, for example, unclaimed allocation to go unused in one service territory if other irrigation districts within the state could use it. And we would just recommend that the Commission review that portion of the bill because we don't want to see, for example, if it's used in Southern California to have that exemption lost in the state and not the full 110 megawatts being used.

**HEARING OFFICER FAY:** Okay. Any questions from the Committee?

**MS. TEN HOPE:** I just want to, you've presented four different scenarios, and two scenarios for the 40 megawatts using two different definitions and then the 71 megawatts uses a broader definition. Is that stating that if the Committee were to use the definition in its original application with the maximum allocation

you could qualify for is the 40 megawatts? Because you show no higher megawatt using that definition.

**MR. KIMBALL:** I think we did use our definition for the 71 and also the 110. I think our feeling is is that if the Commission uses a more, you know, a more specific definition of ag pumping that we could use up to the full 110 megawatt capability; using a more specific definition of ag pumping.

**MS. TEN HOPE:** Tied to the tariffs?

**MR. KIMBALL:** Tied to the tariffs, yes.

**HEARING OFFICER FAY:** I'd like to ask if any of the other people present have questions of Modesto Irrigation?

Mr. Willoughby.

**MR. WILLOUGHBY:** My name is Tom Willoughby with PG&E.

For the record I was PG&E's chief negotiator on this aspect of the bill, and I do feel that I should at least for the record comment on the statement that was made about the allocation of the 110, and that you should use the full 110.

I think that the video tapes that were made of this whole proceeding, and there are some 52 or 3 video tapes, reflect the fact that the essence of this agreement was that the Legislature said there's 110 megawatts of CTC exemptions here, and we want to allocate them in a proportionate fashion among the three investor owned utilities: PG&E, Edison and San Diego.

I think they were quite mindful of the fact that these

CTC exemptions directly impact the utilities' ability to recover their stranded costs. I think that was understood by all of the parties.

And so that if a utility such as PG&E or Edison is asked to pick up some stranded cost exemptions for another utility, that, I think, disproportionately impacts, among other factors, the ability of the absorbing utility to apply that to their stranded cost. They're being asked to in effect absorb more stranded costs than anybody felt at the time.

So I think that's an important point to be made, and I wouldn't want to have that lost in the shuffle. This is an equation that has to balance on both sides. These stranded costs are things that the utility absorbs rather than the customer.

So I think I've made my point. I hope it's been understood.

**HEARING OFFICER FAY:** Thank you. Any other comment? Mr. Willoughby, do you have any comments on Modesto's application?

Mr. Manheim, while PG&E is up.

**MR. MANHEIM:** Bill Manheim, PG&E.

On the same issue if we could just focus for a minute on the language of AB 1890, and specifically Section 374 A-1© on this issue of the allocation of the 110 among the three irrigation districts.

It's very clear at 371 Subsection A that the 110

megawatts shall be allocated among the three service territories. If you skip to Section C, it talks about re-allocation, and the specific language is "shall be further allocated among the respective irrigation districts within that service territory by the Commission."

So we think the emphasis on "within that service territory" pretty clearly confirms the legislative intent that Mr. Willoughby was just referring to.

**HEARING OFFICER FAY:** Thank you. Any other comments on the Modesto application?

**MR. MEITH:** Thank you, Mr. Fay. My name is Jeffrey Meith, and I represent Oakdale Irrigation District.

I have one question, Mr. Fay, for you I guess because perhaps I didn't quite understand the procedure. This is in connection with the confidentiality request under the trade secrets.

I understand some of Modesto's proposed customers are, for example, within the boundaries of Oakdale Irrigation District. But as I understand your comment I guess I had assumed that that would always be confidential, which makes it a little difficult for us to assess an application when we have no knowledge of exactly who's being served.

Procedurally when would you anticipate, if you can, when there would be a determination based on whether or not this type

of customer information is truly trade secret?

**HEARING OFFICER FAY:** Mr. Ratliff, can you address the time frame on that?

**MR. RATLIFF:** Yes. Our regulations require that the determination be made within 30 days of the request. And at that time the determination will also include the period for which it is to be confidential. Whether it is indefinite or whether it is only temporary.

In the interim period they will continue to be treated as confidential. It's my understanding that that determination will be made in the very near future and be made public.

**MR. MEITH:** I thought your definition of trade secret was very generous. I mean I would have to state that I think the definition typically talks about information which is really important to the particular trade or industry.

Now it's certainly true in the case of maybe a large processor that their electric load and their use of electricity could be a trade secret, but we are talking in the broadest, in a sense, ag pumping. And I could imagine there is a lot of ag pumping load which I would have a very difficult time classifying as a trade secret. And I think I would hope that that determination will at least rest to some extent on the particular use of the energy involved.

I would suggest to you that an individual grower and/or



a district owned pumping plant, for example, its power load is not a trade secret. But I guess we'll have to await the determination.

Given that constraint to some extent on our analysis, I guess I would pose a question to Modesto. And that is can Modesto share with us the areas in which their proposed CTC allocations would be used in terms of the service areas involved?

**MR. KIMBALL:** And I guess my response to that is that's part of the confidentiality portion of our application, and the Commission can review that if they so desire. But we don't feel at liberty at least at this point in this session to disclose exactly that detailed information.

**HEARING OFFICER FAY:** I'd like to add before you leave in addition to the time frame that Mr. Ratliff mentioned, my understanding is that if the party applying for confidential handling is disappointed in the Executive Director's ruling they can appeal that which would further extend the period that this information would be kept confidential.

But it seems to me that you're perfectly within your rights to direct a letter to the Executive Director detailing any concern you have with the handling of a particular application for confidentiality if you don't think it should be perhaps as broad as it was applied for, that sort of thing.

**MR. MEITH:** I appreciate that, but, of course, our

standpoint the application is a total blank in terms of the customers. So I can frame a generic-type of question, but obviously you're well represented. And I think the definition of a trade secret is pretty well laid out in the statutes. So I would assume that that analysis is going to be made. But I appreciate your comment, and I may well do that.

Again, I think that's what led to my question is just trying to determine from the standpoint of where Modesto's going to serve exactly the particular customer loads they're talking about and how it's going to be allocated.

I guess my other question would be then to Modesto, and that is looking at the application that identifies the contractual arrangements with various cities, and my question would be is whether or not any of the agricultural load that you would use for CTC exemption is located within those cities for which you now have contracts?

**MR. KIMBALL:** Yes, some is located in those.

**MR. MEITH:** But you're not in a position to say what portion of it?

**MR. KIMBALL:** No.

**MR. MEITH:** Thank you. That's all the questions I have.

**MR. RATLIFF:** Could I just ask you before you sit down I'd like to know, if you can, if you could describe to me the

information that you're interested in you think should not be confidential and why.

It is my understanding of them, and I looked at these applications quickly, but the confidentiality requests generally were of customer lists and of letters of intent filed by customers. There seemed to be a consensus earlier that these kinds of things were highly sensitive to the applicants because if they are made public they allow other persons or other entities, such as the independent utilities but perhaps also other irrigation districts, to try to strike separate deals with these customers. There seemed to be a general interest in trying to prevent that from happening. And I wondered what exactly your objection to that treating such information as confidential is, what your interest in seeing that would be.

**MR. MEITH:** My biggest concern, at least procedurally, is that absent identification, at least some degree of identification of the proposed customers, it's very difficult to analyze for us. I appreciate that the Staff and the Commission has all the information. It's very difficult to analyze the nature of an application.

The second thing I would observe is that from my perspective, I appreciate a lot of people were concerned to the sensitivity, I deal almost exclusively with public agencies, as a practical matter customer lists of public agencies, in my opinion,

except with very limited exception, are not confidential.

So I'm not sure while I appreciate that may have been an overwhelming concern of some people to keep them confidential because they were worried about the competitive nature of this proceeding, I would dare say that does not make them trade secrets. Again the definition is pretty narrow.

Unfortunately you tend to learn more on the listening side of these arguments. I've dealt with a lot of Public Records Acts disputes involving public agencies, and I would dare say that the burden is far more onerous to establish that a record is a trade secret or confidential under the Public Records Act than it is to disclose it.

My immediate problem is only in terms of analysis of the applications. I would certainly tell you that in my opinion it would be hard to put a trade secret exemption over a use of power for pumping of water, use of power, for example, in dairies. I'm having a hard time visualizing those as trade secret.

I appreciate that the Commission did extend that and said you can make a claim for it if you want. I really am more concerned about analysis of applications once that determination is made.

**MR. RATLIFF:** Yes, I think you can perhaps appreciate the difficulty that the Commission had and then the Committee here because they wanted to get as much information as they could. I

think there was the concern that if people revealed their customers or intended customers in a public way, if that was going to occur, they wouldn't give as much information. They might be not nearly so forthcoming in their applications.

It presented somewhat of a dilemma because, you know, you want to have an open process where people can look at the applications as well, but I think the concern was that we would get less information overall if we did not allow people to, or make it clear that people could provide such claims.

If you have a concern about that, I would suggest that you address it now. I believe my recollection, I don't have, unfortunately, the confidential regulations before me, but my recollection of the process is that there will be no appeal period following the determination. But if they are determined to be confidential, a disgruntled party can raise that issue by application again to the Executive Director questioning the legitimacy of the confidentiality claim and requesting public disclosure.

I think the appeal process basically runs to those who seek to make confidential documents public. So that's my memory of the regulation.

**MR. MEITH:** I don't want to overstate this. Our concern is I was just trying to analyze the application. It's impossible to do it.

The fact that making something confidential may induce delivery of more data is not a grounds for confidentiality under the Public Records Act. It's got to be covered under a specific exemption. That's my point.

But obviously the Commission has the data. You're able to make the determinations. It just makes it difficult, for example, Oakdale, we're interested to the extent Modesto desires to serve customers in Oakdale, and it may be a very valid and invaluable type of service. We're interested in services to be provided to beneficiaries potentially in our district, and just for their benefit as well as our knowledge. And it just places us in a difficult position to analyze the application.

I grant you that the legislation doesn't demand that we are able to do that. So perhaps that's the way it rests, but I would dispute the contention that if the determination of a trade secret is we need to make it a trade secret to get the data, that is not an interpretation that applies under the Public Records Act for public agencies.

**MR. RATLIFF:** That would not be the basis of the determination. It would be to determine whether or not it was a trade secret in the sense that it's defined in the Public Records Act.

I guess the question I have for you is how would you use that information if you had it? I mean you say you would like to

have it to know who within your district had professed intent to sign with Modesto, but how would that make any difference in terms of assessing? How would you utilize that information if you did have it?

**MR. MEITH:** For example to assess the determinations of what is an ag pumping load and what is not an ag pumping load. To differentiate between industrial and not industrial. To determine from the standpoint we certainly favor the customers in public within OID. To determine and to assure ourselves that if in the Commission's deliberations we are not successful that our customers and among other reasons it's because, for example, Modesto, which is seeking to serve those customers, we would like to see that those customers are being well served. I think that's how we would use it.

I don't see it as necessarily favoring our application because our application is filed. We did provide customer information. But I see it really more as determining those what I consider pretty crucial definitional points and determining that, in fact, benefits of the allocation to Modesto, if they're successful, are truly going to benefit the customers within OID.

**MR. RATLIFF:** Okay, thank you.

**MR. MEITH:** Thanks.

**HEARING OFFICER FAY:** Mr. Greenwald.

**MR. GREENWALD:** Thank you. I'm Steven Greenwald.

I'm here today on behalf of Hunt and Wesson which is a tomato processor in Oakdale, California. And what I would like to do is give you the perspective of this legislation in this process from the customer side of the meter.

I think the most important thing is that we see all of AB 1890, including Section 374, to benefit California citizens, businesses and employers, and to emancipate this tremendous group of citizens from unnecessarily high rates, unreasonably high rates which have plagued this state for all too many years.

I'm here to talk about the rules you have set up consistent with the legislation and which you're going to allocate based on commitment and viability. And those two phrases are perhaps interchangeable. And we'll be talking about commitment and viability.

Let me digress for a second. I can perhaps clarify some of the information. We have said in our comments that Hunt-Wesson is intending to do a transaction with Modesto Irrigation District. We are physically located in the City of Oakdale.

We gave information to Modesto. I haven't seen what they've submitted in their application with respect to us. We certainly consider our load data very very sensitive. We are in a competitive business, and the manner in which we spend money on electricity is something that our competitors would benefit from.

A little background about Hunt-Wesson in Oakdale. As I



said we're a tomato processing facility. We've been there since the early days of World War II. Over the last half century we've expanded the facility several times. Today we employ about 900 people during the peak season, and we're currently undergoing an expansion.

In early '96 we began exploring alternatives to continuing to take retail electric service from Pacific Gas and Electric. And we talked to several irrigation districts in the vicinity of Oakdale and Modesto. And we looked at the same things that you should be looking at or you are looking at. Viability. Could these folks provide us reliable, cost effective, competitive retail service? Were they in for the long term? Could they deliver power in a time frame we wanted to?

And we went through a process, and we made a determination to go with Modesto Irrigation District. And my understanding, well, there is a letter of understanding between Modesto and Hunt-Wesson. My understanding is Modesto has put that in its confidential portion of the application so you have it before you.

We are committed to finalizing a power purchase agreement in the near term. The one thing that it's contingent upon is getting a CTC exemption through this process. Without that, the economics of CTC and the unknown, the vagaries, would make any non-CTC transaction impossible for us to proceed upon.

You can't make a choice between vendors when you don't know what it's going to cost you. One strong benefit of a CTC exemption is it lets us sit down at the table with all the knowns with Modesto and work out a transaction that makes sense for them, makes sense for us, and allows us both to proceed.

We have been, with respect to commitment, I think it's important that we stress we have been involved in this process from day one. We were with you the first day in Merced, and we stressed to you at that time that you folks come up with rules which would allow the maximum allocation of 110 megawatts, you do so in an efficient, equitable and expeditious manner.

I must say that at times we debated with you and your staff as to whether or not you'd do that, but we feel very strongly that your rules that came out in December 24th will enable you to achieve those objectives consistent with the statute.

We're also very appreciative of the fact that you appear committed to issuing a final ruling in March of this year and truly allowing the 1997 exemptions to come into play as intended by the Legislature.

I want to talk a little bit about viability, commitment, specificity, timeliness. First, I want to address two threshold extraneous issues that were put on the table by comments filed by other parties. First, I don't want to beat a dead horse, but I do

agree with the water agencies what Edison presented to you in their comments their statement that CTC exemptions are detrimental to the State of California. That is just not acceptable.

This is no time to re-debate that issue. CTC exemptions are fundamentally important to this state to maintain competitive options. Competitive options which we've had in this state well into the early part of this century. Fundamentally important. If I could, I would ask for a motion to strike Edison's comments with respect to that. I don't think it's necessary.

Let me say that you have been presented this argument by other utilities in this process, and you have steadfastly refused to take it. I don't think you're going to take it again. I don't think you're going to consider it seriously again. I think you're going to reject it as you have.

I also need to address for a minute a comment made by Woodbridge in their comments filed the other day. They said that you have a threshold issue before you. Before you can decide whether or not Modesto can get an exemption to serve in Oakdale you have to make some decision of who has legal priority between Oakdale and Modesto to get a CTC exemption in the City of Oakdale.

I don't have any idea where this concept came from. The legislation is very clear. It says that any irrigation district can serve retail customers in Stanislaus and San Joaquin Counties and get and apply for CTC exemptions. It doesn't say anybody has

territorial rights or anything like that. There's no basis for it.

And let me further say that what this whole process is about, what all of AB 1890 is about is letting the marketplace take over. As I said at the beginning, we talked to several irrigation districts in this vicinity. We went through a market process. We are the market, and we determined Modesto is the most viable, the most committed, the best able to meet our short- and long-term needs.

**COMMISSIONER SHARPLESS:** I feel sort of like we're getting paid political announcement here for Modesto, and I appreciate the fact that they have such a cheering section here. But perhaps we can keep to the application itself. If you have anything specific to applications.

**MR. GREENWALD:** Yes. If we could, let me just trust that this Woodbridge comment I would urge you to put aside and look at the application and with respect to the standards, viability, specificity, timeliness, there's no question, by any standard, Modesto has to prevail.

And I think first and foremost what you have is a customer in front of you saying that it is committed to proceeding with Modesto. And we're committed to proceeding June 1, 1997. I don't think that any other, it's hard for me to, from what I saw in the applications of the other districts, it is hard for me to

imagine a lot of them being able to serve a customer with retail distribution facilities 01/01/97. The fact 70 years or so in the retail distribution business something we've looked at.

I think one of your questions earlier was to one of the other districts about what's your electric experience. Well, we heard some of the people in our group had done some electric generation projects. That's a lot different than retail distribution business. And that's what the product we're looking at right now.

Were they committed from a board. What formalization have they done. The Modesto Board has approved, and it's in their application, the public part, their ability to serve customers in Oakdale.

And more important from our perspective Modesto Board is also committed to initiating direct access programs so that for customers like us who select to go with them we will have the same opportunities to buy our own supply out in the marketplace and use Modesto's distribution facilities to deliver the power. Very important to us in selecting Modesto.

They have specific game plans on how to get the incremental facilities in place. They have the financial ability.

And in closing, to me the difference between Modesto and some of the other applications is Modesto and Hunt-Wesson come to you and say we have everything in place, with one thing, CTC

exemption. Some of the others seem to be saying give us the exemption, and then we'll start the process going. Then we'll come back to you with customers. Then we'll come back to you with facilities. Then we'll come back to you with financial analysis. We're just the opposite. The only thing that's missing is the CTC exemption.

Thank you.

**HEARING OFFICER FAY:** Thank you.

Does anybody else wish to address the Modesto application?

**MR. MOUNT:** Yeah. I'm from Fresno Irrigation District. It's apparent from the Hunt comments and the Oakdale comments that there is some duplication of loads on the Modesto application.

And I'm curious whether or not the Commission, and, Gary, maybe you can answer this, if you have enough information to determine whether or not some of the loads that Modesto is applying for is also being applied for by Woodbridge, Oakdale and South San Joaquin.

We've already gotten one example of Hunt-Wesson, and I'm not sure of the size of that load, but I believe Modesto covers all of these service areas. And in light of the fact that we're over subscribed by more than a hundred percent over subscribed, we're concerned that this issue is addressed.

And I guess my question again is do you have enough information to determine whether or not there are duplicate loads being applied for?

**MR. HOFFSIS:** I think we can say without violating any confidentiality, yes, there are certain loads that have been requested by more than one irrigation district. And, yes, to the extent that we can, we're going to, quote, correct or recognize that in the allocations.

**MR. MOUNT:** Very good. Thank you.

**MS. KELLY:** But you understand that absent a statement from Hunt-Wesson that they are going to go with them, it's very difficult if you see the same person represented in each application for us to make some kind of a judgment on a business decision.

Now clearly with Hunt-Wesson we know what their position is, and we can make the appropriate adjustments when we look at the various loads that people are projecting. But it is somewhat problematic for us to make any judgment on a business decision that we don't have the intent made clear by the possible customer.

**HEARING OFFICER FAY:** Go ahead.

**MR. BOCCADORO:** Michael Boccadoro again, and I appreciate it. I'll try and keep my comments specific and brief.

A couple of concerns about Modesto's application. In those cases where they are encroaching into the irrigation

district service territories of some of the others that also are here before the Commission in seeking to get into the business, I would encourage the Commission to grant preference to the other irrigation districts to first give them a shot at those allocations.

And the reason for that is one of the beauties of irrigation district that I have talked about before the Public Utilities Commission and Legislature is accountability. And they're accountable because they have local elected boards.

When your power goes out, you don't have to call San Francisco or Rosemead or the Public Utilities Commission to complain. You have the ultimate complaint power in the ballot box.

And so it's very important to the Commission to understand and give an opportunity to those irrigation districts that are seeking allocations that may also be sought by another irrigation seeking to encroach into their service territories to give preference to the locals. I think that's important. And they have the best interests of the locals in mind since they're accountable to the locals.

Secondly, in terms of this comment by Hunt-Wesson as to viability and commitment, I've talked briefly about this, but I think it's important. The Commission, if you haven't looked at the experience that we've recently gone through with an irrigation



district in California in Merced Irrigation District, they're not here today seeking allocation because they have a separate allocation.

They recently got into the irrigation district business, and I'm fairly familiar with their process because they're one of my members.

They did it with relative ease. They weren't in the distribution business prior to that time, but they did it within a matter of months. And they got in with transmission, got in with distribution, with the help of Modesto and Turlock. And they had a unique situation since they were located in close proximity

So this viability issue isn't as big and bad as some people would portray it to be. It is not that difficult, and I want to make that point, to get into the distribution and transmission business.

**COMMISSIONER SHARPLESS:** Could I ask a question, though, with respect to Merced. Merced was basically taking its customers from its own irrigation district, right?

**MR. BOCCADORO:** That's correct.

**COMMISSIONER SHARPLESS:** And here we have a situation where we have vying irrigation districts going outside of their territory vying for customers. Now I quite frankly think that's a good thing because that's competition.

**MR. BOCCADORO:** Sure.

**COMMISSIONER SHARPLESS:** And I would go with the Staff and say, you know, that it's going to be difficult, I think, for the Committee to try to sort out when you try to do this 50 percent load requirement how you can guarantee, if you're going to allow for that kind of competition, that the people who get the allocation will also have the 50 percent ag pumping load. So we have that additional problem.

But in addition to that, I think there is a legitimate concern that there might be some people who have given more thought, have perhaps pursued what is needed more than others, and you do get into a viability issue of making sure. Because I do take our mandate seriously, and they wanted -- the Legislature intends for this allocation to be used. So we're not just, you know, spreading seeds out there where some are going to grow and some aren't. And it is somewhat of a crap shoot based on some of the information we have.

So, you know, the Committee's going to have to balance, it's truly going to have balance a lot of information, and I hope the people here in this audience understand that there's a tremendous amount of balancing that's going on. And we're trying to take all of the comments that have been given today into consideration.

But it makes it even more important, I think, the amount of detail that we've gotten in the applications on which we can

make decision. That ultimately will be what drives the allocations by this Committee.

This issue of overlap, I'm not quite sure how we're going to deal with it. Maybe you can give us some guidance.

**MR. BOCCADORO:** Well, I do have a suggestion on one way you can approach that, and I'll get to that as my last point today.

I want to get back to the general point is there's no question Modesto's probably very viable in terms of their application. They're obviously in the business. They're doing a very good job. Their rates are very low. Their customers appear to be very happy from the ones that I've spoken with that are also my members. No question.

The issue isn't are they more viable. It should be are the others viable as well. And my point is to look, if you want to expand the, and I think as the Legislature did in their intent, was to expand competition through this irrigation district allocation, you have to look beyond the existing irrigation districts to really accomplish that. If you look solely within those, you're simply adding to the competition that already exists in those local areas.

And I'd, frankly, like to see that, and we fought very hard to get this 110 megawatt allocation. I don't think Tom Willoughby will disagree with me that it was one of the most

contested points in the legislation towards the latter end of it.

And clearly I think you want to spread those benefits further up the valley and further down the valley to the extent that you can with the reasonable consideration that those projects be viable.

One way you may approach the viability issue is a fall back is to let Modesto sort of play clean up. Grant the allocations to some of the other irrigation districts that have asked for them, and if they can't utilize them in a reasonable amount of time as determined by this Commission, then to re-allocate those to Modesto because it's pretty clear they can.

But if the Commission's intent and consistent with the intent of AB 1890 is to get some of the other irrigation districts into the business, and I want to make that point because I think clearly if that was the intent of the Legislature, the Modesto language relating to Stanislaus County was one of the final, final pieces.

The whole issue of service outside of irrigation district boundaries was one of the most hot issues in the legislative arena. And that was sparked by Modesto's efforts to serve power far outside of the irrigation district in the City of Pittsburgh.

And so I find it ironic some people here arguing that Modesto should be rewarded by granting them the whole 110

megawatts or 71 when in fact a lot of the debate and a lot of the competition today that we're facing over the 110 megawatts is result of Modesto's own aggressive actions to go far outside of the irrigation district. They started the whole exit fee concept, if you will, because of their aggressive actions.

If you look at PG&E's exit fee filing before the Public Utilities Commission, they very specifically cite the efforts of Modesto to go after Pittsburgh.

And so I'm very concerned about that. And I want to make it clear that the Legislature did intend for these to be spread beyond the existing utilities and should be given some priority to those other irrigation districts that want to get into business and with a fall back to make sure that the allocations are utilized.

Clearly, we didn't fight for nothing for the 110 megawatt allocation. I want to see them utilized more than anyone in this room probably today and to use that as a fall back position to grant those because we know Modesto can use them.

**COMMISSIONER SHARPLESS:** I don't see anything in the legislation, perhaps you can help me out, that allows this Commission to do a fall back.

**MR. BOCCADORO:** I don't think there's anything that doesn't allow you. There was one clause in the legislation, I don't have a copy in front of me, that granted you very broad

authority to make sure that they are utilized to the fullest extent possible.

What we sought to do by putting a specific date for proposals to the Commission was to make sure the process got started quickly. There's nothing in that legislation that stops you from having a secondary process or a re-allocation process. I don't think there's any limitation on that whatsoever. And I don't think anyone in the Legislature would, frankly, have a problem with that.

**COMMISSIONER SHARPLESS:** What would be the time frame?

**MR. BOCCADORO:** I think that's what would be reasonable, and I think maybe the irrigation districts should have some input in terms of, and looking at Merced may be a good example, in terms of how long it took them to get into the business. A year, you know, if they can't utilize their allocations within a year's time, that may be reasonable to come back and re-allocate them to another irrigation district.

But the intent was to get them all utilized. And I think no matter how careful you are, you're going to have some allocations that aren't utilized in a timely fashion, and you should have some fall back position. And it allows you to, in my mind, do what the Legislature intended, which is to get these out, you know, in some cases to new irrigation districts that aren't in

the business with the fall back position of what the Legislature's intent was as well of making sure they're all utilized. It's creative and it allows for that to happen.

So I offer that as one possible way. And I, frankly, think it's consistent.

Modesto's and Hunt-Wesson's points are that these others aren't viable. That Modesto's really the only viable one out there, and I don't believe that. Not for a minute. And if that's their true position, then they shouldn't have a problem with playing clean up in terms of these other district allocations.

**PRESIDING COMMISSIONER ROHY:** I appreciate your comments, and I'd like to confirm that what Commissioner Sharpless said about following the, not the intent, but the letter of the law as written as our intention here that we want to get these used.

We don't, excuse me, I'll speak for myself, do not see preferences, as you might indicate, written into there. It is to get these allocations utilized. And that's why we are expediting the process and trying to move forward very quickly.

And I was just looking at the letter that we sent out on December 24, and if I may read for just two lines it says, "Please provide the information requested in the attached application format in as much detail as possible. All applications should be complete and final."

And that was our intention then, and it's now, is that we expected that their viability would be proven in their applications to us. And we have to rest on that, what they have applied to us. We're going for, I know you didn't say this, but we're not going for a second round of information on the proposals. You were suggesting a second application process for unused.

**MR. BOCCADORO:** I guess the point I was making is to look at viability there are different levels of viability. Obviously Modesto is probably more viable than some of the others just because they're in the business.

But Merced is a great example to look at because they weren't in the business and got in very efficiently, very effectively, and they're currently up and operating and going to be expanding over the next five years. And I think they're a good example.

**COMMISSIONER SHARPLESS:** As someone pointed out to me, and I'd like to perhaps get your reaction to this, this is I know you don't have a section of the bill perhaps, but it's in Section 374-1(b), last sentence says, "Any allocation which remains unused at the end of any year shall be carried over to the succeeding year and added to the allocation for that year."

That implies that if a district gets an allocation, it would roll. Now if the Commission were to do a fall back position



and say, well, if someone doesn't use their allocation within a year, whatever not, would not that fall back position be in violation of that language?

**MR. BOCCADORO:** It's possible that it would be in violation. I think that is something that appears to be to conflict to some degree. There may be a creative way to deal with that.

The irrigation districts at some point, if they aren't moving forward, it's going to be clear to them, and I don't think they want to preclude any of the other irrigation districts from taking advantage of the load. And so there may be something written into, some voluntary agreements that can be written and entered into between the Commission and the irrigation districts as a contingency. It may be also something we look to to clarify and --

**COMMISSIONER SHARPLESS:** I would prefer to have it clarified in statute than independently doing some creative interpretation.

**MR. BOCCADORO:** Understood. I mean look at our side of the issue, too, because, you know, in developing the legislation there was a lot of changes that were made in late night negotiations. And we couldn't, Lower Tule is a good example, too, we couldn't hope to have understood every possible subtlety because all these irrigation districts are different.

But I think there is some room for creativity there to utilize some of the discretion that the Legislature granted to the Commission.

**PRESIDING COMMISSIONER ROHY:** I'd like to kind of use the prerogative of the Chair here and say that these are items that we can cover after our initial allocations. And if they are unused, then we may have to meet with the Legislature personnel or do other actions. But today we intend to review the proposals or applications as submitted.

**MR. MEITH:** Could I just take a shot at your question if you don't mind?

**PRESIDING COMMISSIONER ROHY:** Very briefly.

**MR. MEITH:** Yes. I would only note that that section, in my opinion, relates to the allocation by utility service area, Subsection B.

And in answer to your question regarding authority to effectively go back and ensure that the allocations being used in perhaps along the lines Mr. Boccadoro's suggesting that you have to, if allocations aren't used in the future they may have to go to another entity. I would only point you to the last sentence of Subsection C, 374 A-1(c) that says, "The Energy Commission Conservation Development Commission shall have the discretion to allocate the load covered by this section in a manner that best ensures its usage within the allocation period."

I would interpret that as giving you the authority to make sure that power allocated is, in fact, used by the allocatee, if I can invent that word, and that if it is not in fact, it can be forfeited or re-allocated to other allocatees within that utility service area.

And, frankly, the irrigation district --

**COMMISSIONER SHARPLESS:** You can imagine the difficulties of that, though, you know. It's sort of like if you, I'm just imagining now, here you are, you're a business, and the CEC has given you an allocation. You've now gone forward with business dealings based on that allocation, and we've made some determination that if your business dealings haven't produced some result within one year we're going to pull a plug on you, it seems to me problematic.

Maybe I'm, you know, sensitive to the facts that when government taketh and then government taketh away that there are some financial ramifications that one has to be careful of.

And so if this, in fact, were an approach that seemed like it would bridge some of the difficulties that we might have in this allocation process. I think we would have to be very careful on how we did this because I would hate to see some repeats of government making decisions, you know, well-meaning decisions that have far reaching financial ramifications for investors and economic decisions made by various parties, and, you

know, affecting the credibility of an irrigation district.

**MR. MEITH:** I would only, I'm not saying it wouldn't be a task, but I would note that those of us in the irrigation business, frankly, that's the basis upon which we have our water supplies. We have to build facilities to divert them; we have to use water beneficially and in a reasonable manner; and if we don't, indeed if we don't for a period of five years, we can have it taken from us.

So the concept of living true to your word and diligently pursuing an allocation, and if you don't, in fact, aren't able to use it, having the allocation withdrawn is a, I appreciate it may be a painful risk, but it is a risk that we deal with.

And I would not suggest that the option is pulling the plug. Indeed, if an allocation is being used by those portions of the allocation, or those recipients, it's the difference in my mind between taking the excess that appears to not going to be used and retaining that which has been put to use. But I think it is a task that we're certainly familiar with it in the water business.

**HEARING OFFICER FAY:** Mr. Boccadoro.

**MR. BOCCADORO:** Just real quickly I just wanted to --

**HEARING OFFICER FAY:** If it's real quick. We're going to break at noon.

**MR. BOCCADORO:** Great. I just wanted to add that in further review 1(b) does apply to the utility service areas, not to the individual allocations to the district. So it would not preclude that sort of approach.

And the one year that I tossed out, that was just tossing out there. It may be more reasonable to have a longer period of time. I'm not suggesting a specific amount of time. But that approach clearly isn't precluded by the legislation.

**HEARING OFFICER FAY:** Okay. Just a minute, Mr. Mussetter.

We're going to break now and come back at one o'clock. All right. So we're adjourned until 1:00.

[Luncheon recess from 12:00 pm to 1:05 pm.]

**HEARING OFFICER FAY:** We are back on the record.

**MR. MUSSETTER:** I've been told at lunch this is the case, but I just want to --

**THE REPORTER:** Excuse me, sir. Would you identify yourself for the record, please?

**MR. MUSSETTER:** Bob Mussetter with Enova Energy Management.

I want to ask Modesto, do you have 20 megawatts of agricultural purposes pumping based on the Committee's definition?

**MR. KIMBALL:** Yes, we do.

**MR. MUSSETTER:** Okay. That's fine. What means of

converting horsepower to kW did you use? Did you use .746 or one-to-one or some other number?

**MR. KIMBALL:** We used one-to-one.

**MR. MUSSETTER:** One-to-one.

**MR. KIMBALL:** Thousand kW per horsepower.

**MR. MUSSETTER:** Thank you. That the questions I had.

I had one idea or thought. If it turns out, as it appears it may, that the full 110 won't be used because they'll be leftovers in the Southern California Region, might it not be conceivable that this Commission could engineer some arrangement between the utilities so that there would be a settlement between them and the full amount could be applied on a statewide basis?

And I suggest that for two reasons. I think that based on everything I've been told, including Mr. Bob Ham and what Mr. Boccadoro has said, that the intent of the Legislature was to see that 110 megawatts be used on a statewide basis and not some lesser number.

So for that reason alone, and the other point is that I doubt very much that it would warrant clean up legislation to go back to the Legislature on that point. It's just probably your decision if it's going to be made or not.

**PRESIDING COMMISSIONER ROHY:** Appreciate your comments, Mr. Mussetter.

**HEARING OFFICER FAY:** Thank you.

Any other comments on Modesto's application? All right, I see no indication.

Would you like to make a closing statement?

**MR. KIMBALL:** Yes, I would. I'd like to make just a brief statement on Mr. Boccadoro's comments as it relates to preferential consideration given to irrigation districts locally.

AB 1890 clearly indicates the San Joaquin and Stanislaus Counties are open to all irrigation districts, and I think that was primarily set up because of Modesto since we presently serve everyone in our irrigation district and our ability to compete. And we are very much in favor of competition.

I think an important aspect of all of this that I don't think has been really emphasized enough here is what customers want. And I know for the Modesto Irrigation District communities to the north of us have come to us seeking our power. And I think part of that is because of our reputation, of our low rates, and because of our history. And so as we talk about competition and allocations, I think customers should have a big say in terms of who they have as their provider and not necessarily just because an irrigation district is local.

Also, under the water code as an irrigation district serves outside its area there is local accountability through the city councils and the board of supervisors to provide that as part of the water code. So it's not like they don't have local

representation as it relates to the service provider. And I think that's an important aspect, too.

And the last item regarding Merced Irrigation District, we were directly involved with Merced getting into the electric business. And I would just like to say that the reason that appeared to be relatively easy was because of the significant board commitment to getting into the electric business and a strong commitment from a customer. And that was with or without CTC, and I think that's an important aspect.

As MID moves forward, we are presently moving forward with or without CTC exemptions, and I think that's an important point.

We feel our rates today are probably lower than they will after the CTC goes away with our competitors. And as such, our board has authorized and we are moving forward today with the exemption or not to provide service. And that's because we have a strong belief in commitment that our rates will be low and we'll be able to compete in the future, not just over the next few years.

Modesto Irrigation District has been stated has been in the business since 1923, and we have a history of low rates for our customers and very high electric reliability. And we plan to be there in the future.

We have an organization that's ready to utilize the CTC



today. We have construction, engineering, scheduling, control, customer service, all the support services from billing, meter reading, to accomplish this now, and I think maybe that's what sets us apart from others.

Our board is adopted through resolution our ability to serve. They are committed to being in the electric industry and they're committing to serve new customers and expanding our territories. We have the financial resources, and, lastly, we continue to have an outpouring of customer support for the service that we're providing.

In summary I'd just like to say that we hope that the Energy Commission will give us a full allocation, and we would just like to say that our organization is committed to fully utilizing whatever allocation we receive. And that's all we have.

**HEARING OFFICER FAY:** Thank you.

We'd like to make now an adjustment in the schedule. Some of the people from Fresno Irrigation district have requested an earlier time because of some conflicts they have, and so we'll next move to Fresno irrigation District.

**MS. KELLY:** I think it would be good to identify yourselves.

**MR. MOUNT:** Yeah, my name is Bob Mount. I'm the Manager with Fresno Irrigation District.

And with me we have representatives from Henwood Energy,

Doug Davie and Jeff Van Horne.

**MR. DAVIE:** Maybe it might help, I know there have been a couple of questions that have been key, to start off it might help, if you like, we can make a couple of introductory comments.

**HEARING OFFICER FAY:** We'd prefer to have the Staff go ahead and you can make your comments. If they're not covered in the questioning, make them in the wrap up.

**MS. KELLY:** The questions we have are some of them are general, but most of them are specific. And, again, as I said, we've looked through these various applications, and we're trying to find as much specific detail as possible.

The first question: Is Fresno Irrigation District, the district itself, planning to build the distribution facilities? Will you be responsible for building them?

**MR. MOUNT:** That's correct, yes.

**MS. KELLY:** And you will be financing these costs through the district?

**MR. MOUNT:** Through the district or through a partner or through the customer.

Actually right now we have entered into agreements with two power customers, and as part of those agreements financing for the facilities that will serve them will be covered by the customers. We'll also be doing that with several other customers

that have expressed an interest in doing this same arrangement.

With some of the rural areas we may be seeking outside assistance for financing.

**MS. KELLY:** So let's just say for the initial phase that through partners or these customers the financial resources will come from them initially.

**MR. MOUNT:** That's correct.

**MS. KELLY:** And initially is the district itself going to put up any financial support itself?

**MR. MOUNT:** I have not got an indication from our board that they were willing to do that. Right now for the first, for at least the first year, all of us, all of the construction costs will be covered by the electric power customers. I suspect that once we get beyond that stage that our board will probably assist growers in the construction of their facilities, you know, through financing either warrants or bonds.

**MS. KELLY:** In your application you indicate that preliminary bids were received by Fresno Irrigation District estimating the costs associated with building distribution facilities.

**MR. MOUNT:** We've received some preliminary construction estimates, not bids.

**MS. KELLY:** Construction estimates. Did you solicit these in a competitive manner? Did you, I think in terms of an

RFP, did you say to a number of people --

**MR. MOUNT:** We have not issued an RFP. Some of this information was volunteered, and there was an exchange of information back and forth from the outfit that provided these preliminary construction estimates.

**MS. KELLY:** So these are preliminary. Would you anticipate that if you got the CTC exemption that you would then maybe go out to a larger market?

**MR. MOUNT:** Yes.

**MS. KELLY:** And have --

**MR. MOUNT:** Yes, absolutely.

**MR. DAVIE:** Should probably also note, Linda, in that when we got those numbers we also applied a factor to increase them to be conservative so that in the analysis of it we didn't just take the numbers. We increased them with a significant boost to say, hey, let us be conservative in our analysis to make certain so that when we go out to implement this we know we're going to come in at this point or better.

**MS. KELLY:** Okay. Beyond securing reliable power, we read that portion of your application, there was an absence of specific plans that you contemplated to provide maintenance and customer service. I realize that you said that you didn't want to have a large bureaucratic organization, and so you would have other people do so.

But my question is, that's fine, and if you contemplated doing that, how did you estimate the cost that would be associated with operation and maintenance and customer service in your estimate of capital costs?

**MR. DAVIE:** Maybe what I can do is add I was the consultant that worked with Merced Irrigation District in putting together their program and working closely with them to implement retail electric service for Merced Irrigation District. And for purposes of what Fresno is looking at initially we're looking at many of the same kinds of opportunities to take advantage of competitive suppliers, don't create an initial infrastructure that can be burdensome, especially as you get into business initially, but to use the same kinds of competitive opportunities.

All of the services that are necessary to get into business for an irrigation district in Fresno's situation are available from multiple competitive suppliers.

Having gone through the process once, all of the pieces come together very quickly. Once the decisions were made to move from a timing standpoint, it was a matter of months to put everything together once the commitments were made. Once all the pieces were definitely there, in a matter of months you can put all the pieces together and be in business providing reliable competitive power.

And so we're looking at the same kind of approach for

Fresno initially. As time goes forward, you can re-assess that and look at the potential of bringing on staff that would be Fresno ID staff to start providing the services directly. But initially we're not looking at and Fresno's not looking at creating its own bureaucracy. Rather it's going to use competitive supplies and only create and use its own staff where that is the low-cost option.

**MS. KELLY:** How do you estimate what those costs are going to be unless you go out, and other applicants have provided information about they've already gone out and they know what these costs are going to be, often from other people as well?

And what I was trying to get from your application is we asked for specific details, and I was wondering in you provided confidential information about capital cost, and there is no way for me to understand whether you have included in your estimate of capital costs things beyond construction which would include service, operations and maintenance.

**MR. DAVIE:** Yes. All of those in the confidential exhibit where we have outlined Fresno's expected cost of power, all of those elements are in there. That's the power supply, the cost of all the services, O&M, meter read, that is a complete accounting of all of the costs, and it's based on our experience. And again it's a very conservative number based on the experience we've had.

But the number that's in the confidential exhibit on Fresno's costs does have all those pieces. If you would like, we can certainly provide you a break down of what the various elements are of how we built that number up. But, again, we'd want to do that confidentially.

[Pause in proceedings]

**MS. KELLY:** I'll just, Dick advised me that I should talk to the Committee about this and see, you know, if this would be useful. So at the time, you know, right now I just don't have those numbers so those details aren't available to me. That was the purpose of the question.

**MR. DAVIE:** Right, and I'm sorry. Those details aren't there, but the number you were provided has all of those components in it. It's a fully loaded cost.

**MS. KELLY:** All right. The question that I've asked other people as well have you completed a feasibility study to determine the feasibility in the short term and the long term of your district venture into retail electricity sales? And has this been presented to the board of directors? And is there any resolution by your board of directors to support this and associated community support?

**MR. MOUNT:** There were two feasibility reports. One was done by Henwood, and then another one was done by myself with regard to the rural portion of our ag water pumping.

As a matter of fact, the board has seen both of those evaluations. They both call for a pay back, and that includes the construction of the distribution systems, and, I believe, two to three years for the larger customers, and I think three to five years for the rural ag pumping.

Our board has authorized and we have executed electric power agreements with two of the larger customers. Because of the nature of the smaller customers and their ability to move back and forth between PG&E and, you know, it's impossible to enter into those sorts of agreements with growers.

I mean there's too much unknown for a small farmer to enter into an electric power agreement. They don't know what the CTC costs are going to be. You know, there's too much unknown. And I didn't feel that it was appropriate to execute agreements with smaller customers.

**MS. KELLY:** But as far as your board goes, in other instances that I've observed with municipalization, even I think that the resolution from the board that shows a strong commitment of not only the board but the community to go forward with projects is always very, it tells something about the viability of a project.

**MR. MOUNT:** They have authorized binding agreements with electric power customers to provide electric service.

**MR. DAVIE:** You might also note that Fresno's



involvement and getting into the industry preceded AB 1890 was well in advance. They retained the services of Henwood Energy Services early on in '96 and was talking with Fresno about the opportunities, kinds of things they could do.

Their board engaged the services of Henwood pre-AB 1890, and they were pursuing actively down the path of getting into the electric business providing the kinds of benefits that competitive electric supply would be, you know, it bring into their service area, a high level of interest from a number of customers.

So they say one of the reasons why Fresno was not, you know, you didn't see that much or hear that much about Fresno was there was great uncertain beyond what changes the legislation was going to make. So although we were engaged in working with them early on, decisions to, you know, how we could move forward were delayed pending resolution of the legislation.

**MR. MOUNT:** As a matter of fact as AB 1890 has slowed down our development there is a possibility if it hadn't been for the CTC exemption that was imposed upon the irrigation districts by AB 1890 that we could possibly be delivering power to those two electric customers right now.

**MS. KELLY:** With regard to the possibility of lease options, if you have the opportunity to lease distribution facilities from PG&E, would you anticipate that you would do it for the long term or the short term and then build distribution

lines yourself?

**MR. MOUNT:** It would be very short term.

Our economic evaluation indicates that even for the rural areas we can repay the costs of those facilities within three to five years. It doesn't make sense to lease those facilities for longer than it takes to actually construct our own. It's more expensive to lease than it is to own.

It's the same as renting a home versus buying one. You know, if you buy, you buy it once; you rent it, you buy it forever.

**MS. KELLY:** Another question that I have asked others as well and I'd like Fresno with regard to the minimum amount of the exemption, have you considered -- let's just say it's cut at eight megawatts. If you got an eight megawatt exemption that was given to you over the five years, would this allow you to go ahead with your project?

**MR. MOUNT:** It would very seriously constrict us. I would say that we would probably still go ahead with the eight megawatts exemption, but we wouldn't be able to do the sorts of things that we're planning on doing and would probably have to wait until the deregulation transition period was up before we got back involved in a growth mode.

**MR. HOFFSIS:** Does that mean, though, when you say, "into a growth mode," that if you got as little as eight megawatts

you would make use of those? You could go ahead and use those?  
Or are you saying that would not be adequate?

**MR. MOUNT:** That's not enough to serve the two electric power customers that I've got, and I would need to talk with them about the feasibility of that because they're involved in the financing these facilities.

I've gotten some indications from them that just on the reduction in costs in distribution that the CTC may not be a factor that would prevent us from going ahead with some of our plans.

**MR. HOFFSIS:** Is there a number that you'd care to state that would be kind of the threshold that would really make this a going project or below which it is doubtful?

**MR. MOUNT:** I would say it would start to become difficult at half of what we've asked for.

**MR. HOFFSIS:** So at 20.

**MR. MOUNT:** That's correct.

**MR. HOFFSIS:** I have a couple of questions. One, we're going to be talking about more later today, but just to confirm as Modesto did, when you were converting horsepower to kilowatts you were using essentially a one-to-one or actually one-to-one ratio?

**MR. MOUNT:** That's correct.

**MR. HOFFSIS:** I have a couple of questions on

confidential parts of your application so please help me make sure that we don't reveal anything that we should not.

On the table in your confidential portion that's labeled "Phase in," and I don't believe there's a page number on that, but it's your annual load summary and break down.

**MR. VAN HORNE:** Can I just point out that got revised.

**MR. HOFFSIS:** Yes, yes, I understand.

**MR. VAN HORNE:** There's a revised copy in the clarifying responses to that table.

**MR. HOFFSIS:** Yeah, it's very slightly revised. Yeah, we don't need the specific numbers.

**MS. KELLY:** I have them if anybody, you guys, not everybody.

**MR. HOFFSIS:** Under one of your computations you did include and mention that you included refrigerant load.

**MR. MOUNT:** That's correct.

**MR. HOFFSIS:** And the question is if the Committee or assuming the Committee is steadfast in its earlier decision to exclude refrigerant load as pumping, as agricultural pumping, then would that mean that the maximum allocation you would be eligible for would be two times the numbers that are shown on that line labeled "Non-refrigerant ag pumping load"?

**MR. MOUNT:** That's correct.

**MR. HOFFSIS:** And would you care to say how that alters the application or the approximate magnitude of those numbers? Or do you have any objection if I say to put into the record?

**MR. MOUNT:** The decision to include or exclude those from our application is entirely the Commission's. As a matter of fact we've introduced the information so that the decision can be made in either manner.

You know, I think that the point that we made was that the refrigerant load that we were applying for was the ag producers refrigerant load. We're not talking about a, you know, commercial/industrial processor coming in, you know, buying an ag product and processing and converting it. We're talking about the, you know, the actual producer refrigerant load.

I guess that's a vertically integrated was the word that was used.

**MR. HOFFSIS:** When we talk about those ag producers, there are on that page a number of customers listed, actual specific customers by name. Are all of those customers now currently receiving or eligible for agricultural rates, either from PG&E or Edison?

**MR. MOUNT:** I believe that the, and I've been told, that the two named would be.

**MR. HOFFSIS:** So that even continuing with --

**MR. MOUNT:** Under Edison's tariff, not PG&E.

**MR. VAN HORNE:** In our application we point out that they would qualify under the Edison tariff definition of a service as vertically integrated producers.

**MR. HOFFSIS:** Could you point me to that because I think I may have missed that then. Or is that in the confidential part?

**MR. VAN HORNE:** That would be in the middle of page seven, second paragraph under "larger customers" in the non-confidential application.

**MR. HOFFSIS:** All right. So your assertion is that even with the Committee's what's been termed a narrower definition of agricultural, these customers all qualify?

**MR. VAN HORNE:** That's correct.

**MR. HOFFSIS:** So the only issue at that point then is the issue of refrigerant load and whether it constitutes pumping or not.

**MR. MOUNT:** That's correct.

**MR. DAVIE:** I would like to maybe move back to the last -- you asked him the previous question about the translation from horsepower to kilowatts and the clarifying response. Question number three we did point that out, and although we said it's one-to-one, realize that we're looking at the horsepower to get the water on the land and that we're taking account of a

conversion of .7457 kilowatts per horsepower losses through the system and other pieces.

So the one-to-one is not a conversion of horsepower to kilowatts. It's getting, it's the kilowatts required to get the water onto the land. And it's starting with a point of horsepower per acre-foot delivered. And that's why we're getting the one-to-one conversion.

**MR. HOFFSIS:** I understand, and I only mentioned to make sure that that's clear to everyone here because you may be gone but I think we're going to have more discussion later this afternoon because those conversions have been done a variety of ways, and we want to see if we can achieve some at least understanding of the different ways.

Last question. On page nine of your application you allude to the possibility of granting partial exemptions. And I know we've discussed this before, and in PG&E's comments you've noticed that they don't think that's possible. And the question is if it turns out that that is not going to be permissible for whatever reason, how does that affect your application or the viability of your program?

**MR. MOUNT:** It's a non-issue. It's a non-issue. If we're required to under CPUC or if CEC to apply those to discrete customers and retain them with that, we can handle that. We've discussed that we can adjust loads or give credit for exemption

payments in order to balance those out.

We'll handle that however we have to handle that. I don't think the Commission needs to concern itself with that issue. It can concern itself with whatever it wishes, but it's not an issue for the irrigation district.

**MR. HOFFSIS:** No more questions.

**COMMISSIONER SHARPLESS:** On that issue I'd just like to pick up on Staff's point and see if I understand what point they were making and whether you address that point. The question is: Do your load figures reflect partial CTC exemptions?

**MR. MOUNT:** No, they do not.

**COMMISSIONER SHARPLESS:** Okay. That clarifies that point.

I have one other, not to belabor because I know we're under a time constraint here, but I was a little, I was trying to follow the earlier discussion about, and I think I understand your position about the CTC and your plans to go forward. I just got, I guess, confused between what sounded like some opposite statements being strung together that didn't make sense. On the one hand I thought I heard you say that you would go forward with your plans despite the CTC exemption.

**MR. MOUNT:** No, I said if it had not been for the CTCs imposed by the AB 1890 we would probably have been delivering power by now --



**COMMISSIONER SHARPLESS:** Okay.

**MR. MOUNT:** -- to the two customers that we've entered into agreements with.

**COMMISSIONER SHARPLESS:** Okay. Now the second point is that you said that you need at least a threshold of 20 megawatts in order to go forward and make your plan viable.

**MR. MOUNT:** That's a feeling that I have. You know, I've got commitments to provide service to two customers right now. Those facilities are going to be financed by those customers, and to the extent that there's going to be the possibility of a limited exemption that's going to tie into their willingness to finance their portion of the facilities.

And, you know, even though that portion of it is between, I think we looked at like 1.7 to 2.7 years in terms of a pay back, and they're willing to take the risk on that time or period of pay back. I'm not sure if they're going to be willing to do that if it's a three, four, five or more. We'd really have to evaluate what the pay back period is going to be.

We don't know what's going to happen after five years. As a matter of fact, we've limited our focus area to those areas that we are sure that we can guarantee a pay back within the transition deregulation period.

All the other areas, portions of our district where we can't, and, you know, we evaluated pay back periods for other

areas, and they were in the 10 to 15 or more simply because there wasn't the load, that it was a very low load factor, they had high water tables access to surface water, we did not even consider those. Even though we may go back at a later date after deregulation, we did not consider them as far as the CTCs.

And as a matter of fact, we have limited the area that we're going to be able to feasibly provide electric service within our district to, I would say, probably less than 10 percent of our total service area for that reason. It's just not economically feasible within the five-year transition period.

**COMMISSIONER SHARPLESS:** So a 20-megawatt allocation would mean that it would increase your pay back period.

**MR. MOUNT:** It could potentially, that's correct.

**COMMISSIONER SHARPLESS:** It could potentially. And it could affect the interest of some of your larger customers that would support.

**MR. MOUNT:** That's correct.

**COMMISSIONER SHARPLESS:** The underlying cost of the infrastructure.

**MR. MOUNT:** And bearing in mind that those larger customers are helping us aggregate power so that we can reduce the cost for our rural growers.

You know, we have two phases of this. We have the rural smaller growers, and then we have the larger group. The larger

group is going to be assisting us in financing some of the facilities to serve the smaller users. And to that extent, you know, it could have serious consequences if that load is dropped. At this point I don't know without consulting them.

We really have to know what sort of allocation we're talking about before we can make that decision or that statement, and we really need to consult with our customers.

**COMMISSIONER SHARPLESS:** Okay, thank you. I think that clears up the confusion I had on the statements you made.

**HEARING OFFICER FAY:** Does anybody have questions of Modesto Irrigation? Fresno, rather. Sorry.

Mr. Manheim.

**MR. MANHEIM:** Thank you. I'd just like to clarify a couple things for the record. Ms. Kelly asked a question about leasing so I thought I should take this opportunity to clarify PG&E's position on leasing.

As a general matter we do not intend to lease to any irrigation districts. If the Commission concludes that an irrigation district has a viable construction alternative and warrants exemptions to that irrigation district, we will consider leasing to avoid a duplication of our transmission system. We haven't made any decision to do that, but that's the only context in which we'll consider leasing.

So in the example of Ms. Kelly's question, Mr. Mount

stated that Fresno would only be interested in a short-term lease which would buy them time to build their facilities. I think it's extremely unlikely in that circumstance that PG&E would lease because that wouldn't avoid duplication of facilities which is the purpose of the program.

**MR. MOUNT:** Would you sell to avoid duplication?

**MR. MANHEIM:** So again, we would ask the Commission not to consider the prospect of leasing at all in your viability assessments because in our view leasing only becomes an option down the road that's available to those entities that can actually build and construct. So we would only do it, if at all, as a means of avoiding duplication of facilities.

**MR. DAVIE:** I would add, I think, in that we have had conversations with PG&E and met with them on this very issue, and that is why our application is premised on Fresno building facilities. And we did in our application identify that we would consider alternative arrangements such as leasing if, in fact, that were an available option. But the application and everything we have done is premised on Fresno building everything.

**COMMISSIONER SHARPLESS:** Could I ask in the case of Merced, you're using it as an example of an irrigation district that turned things around fairly quickly, have they leased or did they build?

**MR. DAVIE:** They built everything. And, again, that

was because for the same reason. They were not afforded the option of not building so they built.

**MR. MOUNT:** Commissioner Sharpless, if I could just clarify something. It's true that Merced owns, but what they own is a single line that's less than a mile in length, and they serve one customer. Well, if it's not true, you can clarify, but that's my understanding. There is a substation as well, but I understand that's owned by the customer.

**HEARING OFFICER FAY:** Any other comments on the Fresno application?

**MR. DAVIE:** I might add just in response I think that the comment was made about Merced they are in the process. Every industry, every business starts with one customer. Merced started with one customer. That's absolutely correct. They are in the process right now of expanding their system. They're being fought tooth and nail all the way along by PG&E in terms of all the processes that they have to go through. Environmentally they go through and do the negative the environmental processes. PG&E is exempt from doing those. They're being fought tooth and nail all the way, but they are proceeding down that path. They have been slowed down clearly by PG&E.

**COMMISSIONER SHARPLESS:** Well, can I ask a question if you start with one customer, and the law requires that in every year you have 50 percent ag pumping, how does that work?

**MR. DAVIE:** Because of the change in law, Fresno is going to be required to initiate and start service with multiple customers early on. Again, somewhat depend upon the interpretation that comes out of this Commission with regard to the ag pumping requirements. But we are looking at and our plans include building facilities to hook up and start initial service with multiple customers to ensure that we're in full compliance with the rules however they come down are interpreted.

So Fresno is going to be a little bit different from that perspective, but they're going to get into business, and there will be in a very short time frame. You probably have for some short period of time, whether it's a day or two days or whatnot, only one customer on line until you get the next one hooked up.

Fresno will be bringing multiple customers on line though initially because of the changed circumstances. The rules are different today than when Merced got into business.

**COMMISSIONER SHARPLESS:** Commissioner Rohy, could I ask one last follow up question?

Regarding that, we have put out an ag pumping definition and I think Fresno is going beyond our ag pumping definition. Does this present a problem if, in fact, you have to build your facilities in the first year and finance them and have as a part of your load 50 percent ag pumping based on the Committee

definition?

**MR. DAVIE:** No, it is not. And I think if you look at some of the customers that are identified in the confidential exhibit, you'll see very quickly why that is not a problem. We have some very large, some very large and significant load in aggregate that can be quickly connected and will, in fact, take care of that less beneficial interpretation. Our view is that it's vertical.

**COMMISSIONER SHARPLESS:** Beneficial to some, less --

**MR. DAVIE:** It's less beneficial from the irrigation district's standpoint, correct, than the customer's standpoint.

**COMMISSIONER SHARPLESS:** Okay. I'm sorry. Thank you, Commissioner Rohy.

**PRESIDING COMMISSIONER ROHY:** If you were not given a lease from PG&E for their distribution facilities and in fact were to go ahead directly and construct your own, would that prevent you from accepting a CTC exemption for a year? Could that be done within a year?

**MR. MOUNT:** We're looking at potentially at having facilities, and correct me if I'm wrong, constructed probably late in 1997, probably the third quarter. So there may be a portion of the time that we're not able to serve power because we don't have the facilities. It would be helpful to have the lease to start serving the customers immediately, but within the transition

period that's not a problem. But during the first year it would be helpful to have the lease.

**PRESIDING COMMISSIONER ROHY:** Is eight to ten months, which is I made up that number from your point saying third quarter, a reasonable time to permit and construct?

**MR. MOUNT:** We believe so.

**PRESIDING COMMISSIONER ROHY:** The gentleman from Henwood?

**MR. DAY:** Well, we can use Merced Irrigation District as example. It went much faster than that.

**PRESIDING COMMISSIONER ROHY:** Thank you.

**MS. TEN HOPE:** I have one quick question. I just was curious what the megawatt load is that Merced is serving within that short time frame. You said they got up and running. What's the megawatt load?

**MR. DAVIE:** Their first load was, what, in the 12 to 15 megawatt range, something in that order. I would have to go back and look at the specifics. It was in excess of 10, less than 15.

**PRESIDING COMMISSIONER ROHY:** I heard a gentleman say 11 in the back for the record.

**HEARING OFFICER FAY:** Is there another party who would like to question Fresno on their application? I see no indication. All right.



Any final comments then from Fresno?

**MR. DAVIE:** I think the only thing that Fresno clearly wants to summarize and I think has come out of the questioning is the level of committedness that Fresno and its board have made to pursuing this. That they got involved well before the AB 1890 rules were written, they saw what was going on, Merced Irrigation District is an example, and they were pursuing that. The board did make a commitment. They have invested funds in terms of hiring some expertise to look into the options and opportunities.

**MR. MOUNT:** And we've participated in this process, too.

**MR. DAVIE:** And actively involved in the process, and they've entered into a couple of agreements that are very significant agreements with some large customers.

So they are committed and ready to move forward, and the only uncertainty that is remaining right now is what is the level of benefits that they're going to be able to provide by virtue of the CTC exemptions.

**HEARING OFFICER FAY:** Okay. Thank you.

Now we're going to move to Oakdale Irrigation District. Are there representatives of Oakdale here? Good.

Jim and Linda, are you ready to question Oakdale?

**MS. KELLY:** Could you introduce yourself?

**MR. BARZAN:** Yes, for the record my name is Richard

Barzan. I'm the interim General Manager of the Oakdale Irrigation District.

**MR. HONDEVILLE:** My name is Robert Hondeville. I work for the Turlock Irrigation district.

**MS. KELLY:** The first question I have references Section 3, distribution facilities of your application. In that section you indicate that you'll build distribution facilities to serve the proposed industrial load in 1998, but is your intent to serve ag pumping customers with leased distribution from PG&E?

Your application never mentions in any case building distribution facilities should PG&E not lease you those facilities. And they've clearly indicated that they are not willing to do those unless you are proposing to, my understanding is, build parallel distribution facilities yourself. I may be wrong.

Could you tell us that if that is the single option you have for ag pumping, and you don't get a lease from PG&E, will that make your application invalid, or do you propose, besides the distribution facilities that you say you will build for your industrial customers, would you be willing then to build distribution facilities for your ag pumping customers? Or you would have to.

**MR. HONDEVILLE:** You're basic correct. We would follow through with building facilities.

**MS. KELLY:** And when you did your analysis, did you include it, you said that you would, there was information about building the distribution facilities. In your feasibility study on this did you include the costs of possibly building distribution facilities to all ag customers?

**MR. HONDEVILLE:** We have two parallel reports. Process CTC application and another study that was basically a feasibility study to serve power. That report did cover our ability to serve with we built all the load. We weren't looking at leasing in that particular option.

We looked at several options besides leasing, purchasing the facilities and so on. That report did cover that, although we felt in the application it was more prudent to pursue the leasing option because we figure that would be most valuable to the urban customers, would not have to be faced with duplicate facilities, and also the rural customers, it would not really be a useful approach.

It was our precedence to try to go with the lease arrangement if all possible, but we are fully prepared to build facilities.

**MS. KELLY:** And would you be able to build those facilities at the same time you were building the distribution facilities to industrial customers because you would have to match them.

**MR. HONDEVILLE:** Yes, we would. The construction of the 115 1.7-mile extension is a relatively short-term project. We feel that we can tap off a customer substation that point and serve additional agricultural load and other commercial load to meet our requirements for the 50/50 allocation.

**MS. KELLY:** When you discuss your distribution facilities, do you have anybody identified who would be building those distribution facilities, or can you indicate that if you intend to build them that you have some experience with building those type of facilities?

**MR. HONDEVILLE:** Yes. Turlock Irrigation District, much like the Modesto stated, has been in the power business since 1923. We operate 450 square mile territory, both generation and distribution facilities. We have tremendous expertise in this, and we figure we can do this for Oakdale, if they select us, in a short time period. We're prepared to do so immediately on their request.

**MS. KELLY:** So you would provide a complete package. Basically you would provide the transmission and then build the distribution, arrange the interconnection?

**MR. HONDEVILLE:** We are prepared to offer them whatever we want, much like we are currently assisting the Merced Irrigation District in some of these matters as well. We did the interconnection for the Merced Irrigation District also.

**MR. BARZAN:** I think it's important to note that from the standpoint of many irrigation districts in the State of California that are trying to enter into the power business we're not experts at retail power distribution right now. I think it's very important in order to guarantee a very high level of reliability, confidence in the customer, that we bring people on board that can prove that we are going to be a viable alternative to supply and power to the local community.

I think it should be very clearly stated that the Oakdale Irrigation District is providing or planning to provide power to people within its boundaries of service. We are not going outside our boundaries of service like other agencies are doing in the local area.

That's one of the reasons why we have been involved with TID. They have a very good reputation in the power business. They have a long history, you know. We feel that that adds to our credibility in the business, and I think as that relationship develops, as well as our history in the business.

The Oakdale Irrigation District has been involved in the power business since 1953. We have been involved in the generation business. That as part of a very proactive stance on behalf to the district on trying to meet the needs of our constituents. And I think it's very important. We are trying to respond to customer needs, and those are the people of our

district, and we have a board of directors that's trying to be responsive to that.

We co-own and operate four hydroelectric power plants on the Stanislaus River. We've been studying retail power options for the district since 1988. I believe the CTC exemption that's being allocated under 1890 has just allowed us an opportunity to respond quicker than we would have otherwise.

Our hydroelectric power facilities are coming up for re-license within the next seven years. As those plants get re-licensed, we are hoping to bring that power down to our constituents again and provide that power to the people of our district so we can benefit them in a manner that we feel is most beneficial.

**MS. KELLY:** Who would provide the financial backing? Would Turlock provide this, a large customer, or would the district provide the financial backing for a building of these distribution facilities?

**MR. BARZAN:** As you're probably aware, the irrigation district has many forms of which of generating revenue. Obviously any financial package we put together would look at all options, whether it be generating certificates of participation, going out to a general bond for the district as a whole, seeking third parties for funding sources, again, it becomes a business decision.

And again, by trying to keep the best interests of the people of the community in mind, we feel we can be responsive and find the least cost option that's going to provide the best service.

**MS. KELLY:** Prior to this application have you weighed those options? A number of applications show that the district has already looked at various options and indicates to us that there was some forethought about the financial considerations and the best way to do that. Have you done any of this preliminary foot work that you could share with us?

**MR. BARZAN:** We have done some preliminary work in regards to trying to figuring out the funding. The line that we are dedicated to build, I think that we've looked at the economics of that. It's difficult to really see through the whole analysis because there's a number of variables that are unknown.

Probably one of the most key variables of the equation, I think the reason why we're all here today, is to ascertain the level of exemption that we can get. Because that affects the bottom line of any economic package.

**MS. KELLY:** Which then just leads me to the next question. Do you have a, you know, if you were, your request now is, let me just check here, is for 11, if you were to get eight megawatts, could you then continue with this project, or do you have enough information at this time to indicate that?

**MR. HONDEVILLE:** I think we prefer to go with the 11 if at all possible. I'm sure if we were limited to eight, we can make do. But we have uses for 11 megawatts, and we know we can utilize that in that load. It would require some re-study on our part to determine if we can accept anything less and still be viable.

**MS. KELLY:** You would have to, if you got less, you would have to re-look at this. You have only looked at this from the point of the request that you have asked for?

**MR. HONDEVILLE:** That's correct plus a flat 11 megawatt request for five years.

**MR. BARZAN:** I believe if you would look, you know, if you look at our request, I think it's a fairly realistic plan. We felt compelled to follow the Commission's definitions on the ag pumping load criteria.

We're not trying to pull in any outlandish ideas of trying how to creatively determine ag pumping load. We're looking primarily at the water pumping. Dairy industry was an area we looked at very closely because there's a large number of pumping that takes place on a dairy operation.

That's the kind of, you know, we've been very conservative in our approach. And I think part of our irrigation district, you know, dictates that we be conservative. You know, we do have a responsibility to our constituents to make sure that



we're not going out too far on a limb, you know. But that is a responsibility of the district is to take prudent risks to move the district in a very proactive manner to address the needs of the community.

**MS. KELLY:** Do you have any indication from your board or approval from your board to go forward with this project?

**MR. BARZAN:** Yes. The board has been, as I stated, since 1988 the board has been involved studying options on retail power. The board is, right now, is very tentatively waiting for finding by the Commission here on making a final determination on moving forward. If the financial picture looks good based off the economics that are reviewed at the end, the board has been very solidly committed to proceeding with this.

The board is still looking, again whether or not the CTC exemptions come down, is that we know in seven years that we will have a very substantial power supply made available that we want to bring down to our community and put to beneficial use.

So I do not have a resolution saying that the board is going to move forward one way or the other, but their instructions to me are to very adamantly move forward on this project and to make sure it moves forward in a positive direction.

**COMMISSIONER SHARPLESS:** Could I ask a question?

Is your proposal also premised on going outside of your area for customers?

**MR. BARZAN:** No, it is not. It is to stay within the boundaries of our political organization.

**COMMISSIONER SHARPLESS:** Is there a concern, well, there's a concern on our part, I guess, and one that was expressed earlier today that some of the customers that are being used to determine economic viability of your project might be considering other irrigation districts as their provider.

**MR. BARZAN:** From the general conversations I've had with numerous landowners throughout the district as this project has developed is that most of them are very much interested in lowering their power costs. They're looking for a reliable supply of power, but the bottom line comes down is reliability and cost of service.

My ultimate goal on behalf of the district is to try to make sure that our district can benefit as much as possible from this proceeding that's taking place today. That's to --

**COMMISSIONER SHARPLESS:** But you're going to have competition. And obviously you already know that there are irrigation districts that are in the business that will, in more likelihood, get CTC allocations. And the question would be whether or not they could provide your customers with lower prices than you could; and whether or not, therefore, you would have the customer base to make your project viable.

How would you respond to the dilemma that the Committee

sees itself in on this?

**MR. BARZAN:** Well, that's one of the reasons I think we put forward a very candid straightforward application is to clearly identify who we are planning to provide power to.

One of the parties that responded during the Modesto issue was Hunt-Wesson group. I found it rather interesting is that two days before we filed our application I received a call from Hunt-Wesson. And Hunt-Wesson was adamant about us making sure that we included them in our application.

Now we were not included in the negotiations or discussions that were taking place with Modesto Irrigation District. If the Oakdale Irrigation District cannot provide that service to constituents of our district, I would like to see that somebody can provide that service. So whether it is the Modesto Irrigation District or some other district, I'm still from a standpoint of trying to provide service to the people of our district.

And any way that we can do that. You know, it might be that it is necessary to sit down with the other district or other party and see who is serving who and make sure there is no duplication of service.

Unfortunately, I have not been given any information regarding who the Modesto Irrigation District is planning to serve within our area. Their description is very broad, includes more

than our district, it includes areas outside of our district. I don't know if they're filing for an application to include only one, two or many parties within our district for service.

I'm hopeful that the Commission can ascertain who they are trying to provide service to, and if there's a duplication of service, obviously we'd be more than willing to sit down and discuss that.

**MR. HONDEVILLE:** If I may add something, too. In my personal contact with several of these agricultural, true agricultural customers their concerns were not so much, and they had, some of them have been contacted by other utilities, their concern was not which one of these other utilities are going to get it, but the concern was that they were relieved of PG&E's costs and their rate structures.

That would give them a huge amount of relief. Whether it's a five or a ten or 15 percent savings, their biggest concern is getting off PG&E system. They don't feel that they have any representation in that system. They feel that they are victims because they're an agricultural customer.

And we have had just a huge outpouring, and that's why our application at last moment we were getting dozens and dozens of requests to add to this application at the last moment from agricultural customers who truly wanted to be, if there's an opportunity there, they wanted to make sure they were in on it.

**PRESIDING COMMISSIONER ROHY:** I'd like to ask -- excuse me. Should we go back to Staff here first?

**HEARING OFFICER FAY:** Probably if you can wait, yes.

**MR. HOFFSIS:** Actually this is a follow up to what Commissioner Sharpless was asking, but I guess since you've mentioned Hunt-Wesson and given their statements today, there seem to be a pretty clear inclination to be served, to become a customer of Modesto. Does that suggest then that your application ought to be modified accordingly and remove Hunt-Wesson's load from your allocation request?

**MR. HONDEVILLE:** Well, we're a little confused since the corporate office of Hunt-Wesson contacted us and still like us, and we have not heard differently from them. And this is the Con-Agra Energy out of Nebraska who does all of Con-Agra facilities' energy bidding. And the last our dealings was that we actually changed our application at the last moment to accommodate Hunt-Wesson. So our application is not built around Hunt-Wesson.

**MR. GREENWALD:** May I just --?

**HEARING OFFICER FAY:** Just very brief, Mr. Greenwald.

**MR. GREENWALD:** Con-Agra is the parent of Hunt-Wesson. My client is an individual of Con-Agra who's in charge of buying energy for the Hunt-Wesson facilities. He's the same individual that these folks have dealt with, MID has dealt

with. I'm authorized by Con-Agra, Hunt-Wesson to speak before you and state its position.

Thank you.

**MR. BARZAN:** If that is the case, the Oakdale Irrigation District has no problems removing them from our application. It was only upon their request that we added them to our application to make sure that they were included.

**MR. HONDEVILLE:** We could certainly fill the void with other commercial load and some small portion of ag load within the area, I'm sure.

**MR. HOFFSIS:** Now, when you've got another customer of Hershey that you include a portion of that load as agricultural pumping --

**MR. HONDEVILLE:** Yes.

**MR. HOFFSIS:** Is that the same as asserting or saying that that facility could indeed be eligible for an agricultural tariff from either Edison or PG&E for a portion of its load?

**MR. HONDEVILLE:** That is correct. What the water, yeah, I contacted both Edison at their Ag Tech Center in Tulare and PG&E for the clarification of their agricultural rate structures, and they are concerned with the end use of the energy. Where the energy, what's the end use of the product that's produced.

The water ultimately passes through for some cooling of

some raw milk product before it's added to the chocolate manufacturing process, and then is returned once it's cooled into an irrigation canal for reuse by agricultural customers.

It's much like I would consider a water treatment facility would be. I mean you're taking water and using it and reusing it, but the final end use of the product is for irrigation purposes.

**MR. HOFFSIS:** So you have what you believe is a determination from Edison that, yes, this would qualify as far as they're concerned?

**MR. HONDEVILLE:** I think it would qualify under PG&E's definition, too. Because the end use of the product we're not changing form or shape of the product in this process. They simply use that portion of that load is just simply used for cooling, and its end use of the product is used for agricultural pumping.

**MR. BARZAN:** I think it's important to understand is that it's only a portion of the Hershey load that it is being considered as ag load.

**MR. HOFFSIS:** Understand.

**PRESIDING COMMISSIONER ROHY:** I'd like to ask a question here in your, I'll back up the Hunt-Wesson issue for a moment. But you had requested for 11 megawatts starting in 1997 and then level for the duration of the program.

We have a legislation that requires us to allocate this 20 percent every year of the five-year period. What effect would it have on your program if we in fact allocated, take for example, 11 megawatts but 20 percent of it every incrementing every year?

**MR. HONDEVILLE:** I think we can deal with that. We do have some options in pooling our facilities and the number of customers we tend to hook up. If you're talking about escalating that number or coming up with lower? I want to make sure I understand your question.

**PRESIDING COMMISSIONER ROHY:** Whatever the number is. Assume there's an allocation to Oakdale. But you have asked for a flat load. We have to ramp up the load over five years. It's my understanding of that. Is that correct?

**MS. TEN HOPE:** Across the whole service territory.

**PRESIDING COMMISSIONER ROHY:** Across the entire service. But we can't give everyone full amount the first year. Not everyone has asked for a full amount the first year. But you have.

**MR. HONDEVILLE:** I understand.

**PRESIDING COMMISSIONER ROHY:** And so there is a necessity of ramping over a service territory. And I was wondering whether if, in fact, we came to a conclusion as a committee that that had to be ramped in your case, would that have a significant effect on your proposal, whatever the amount was of



the total allocation?

**MR. HONDEVILLE:** I would not think so. I assume we would still approach a 50/50 split building out agricultural at the same time. I don't really foresee a major problem in doing that. Our preferences are going to be 11, of course, but if we come up something short of that, I'm sure we can make the best use of it.

**PRESIDING COMMISSIONER ROHY:** Then let me ask the flip side. If you had your full allocation the first year, could you use it?

**MR. HONDEVILLE:** Our construction?

**PRESIDING COMMISSIONER ROHY:** Including construction, yes.

**MR. HONDEVILLE:** We believe we can build fast enough. Now, a lot of that was taken into consideration that PG&E would lease some facilities to us. If they will not, we're just going to have to build that much faster. We're just going to have to build out in areas to identify as much agricultural density as we can and serve those loads. Also try to take the agricultural load out of Hershey that we already identified and probably build into the water treatment facilities in Oakdale, claim some of those as agricultural loads, because it somewhat has adjusted it.

But I feel we could certainly operate under using that load, and any load would not, if a minor amount of that load it

could be rolled over in the following year, we're sure we could utilize it at that point.

**HEARING OFFICER FAY:** Are there any comments or questions of Oakdale?

**MS. TEN HOPE:** I wanted to ask you about Exhibit E and what this list of pumps represents. It's a listing of pumps by meter number and a rate and horsepower. I can't really tell what this is and --

**MR. HONDEVILLE:** What this is is a way to identify basically all agricultural customers.

A consultant of ours went out at the time it wasn't possible to see everyone's PG&E bills in the short amount of time we had to respond. We did get verbal permission to go through the dairies, look at the pumps. In most cases the farmers took us out to the site, gladly showed up what they had, explained how it was used.

And we identified this for purposes of reapplying to PG&E to identify the load for them either in meter number or account number. PG&E should be identifying exactly where these pumps are. If they're not, we used a little positioning to show them on the maps where exactly these locations are for every one of these pumps.

And in case anyone wanted to follow up and do any investigation, we clearly put out where this was, what it is. And

if there's ever any doubt you're in the wrong place you could just look at the meter number, determine this is exactly where this load was taken from.

**MS. TEN HOPE:** Was this compared to usage information anywhere? This gives you horsepower, but it doesn't give you any sense of how --

**MR. HONDEVILLE:** Basic, yeah.

**MS. TEN HOPE:** -- much these pumps are used.

**MR. HONDEVILLE:** We have three categories basically that were used. Some dairy pumps, agricultural irrigation pumps usually have a seasonal usage, where dairy pumps are used 24 hours a day, seven days a week type operations. We made adjustments on those type of loads.

What we did is we took an average of about 15 dairies, about 15 deep well irrigation pumps, and tried to establish trends that represented how that horsepower was used. We know that a dairy may have a total connected horsepower load of maybe 500 horsepower. But all that load does not come on at one time, nor does PG&E see that on their system. We adjusted for that. And I think in our supplemental information that we provided we addressed how that was actually calculated.

**MS. TEN HOPE:** I don't remember seeing that. That's in your application where you go through by categories?

**MR. HONDEVILLE:** In the response to how --

**MS. TEN HOPE:** Okay. Clarifying questions.

**MR. HONDEVILLE:** -- loads are being calculated under Question No. 3.

**MS. TEN HOPE:** Okay. And this is the same appendix that was used in the South San Joaquin Irrigation District?

**MR. HONDEVILLE:** No, it's not.

**MS. TEN HOPE:** It's not?

**MR. HONDEVILLE:** Totally different list of customers. Those were done by --. The listing here is by meter numbers. The listing in South San Joaquin is done by PG&E account numbers because we had a little bit more information dealing with those customers.

**MS. TEN HOPE:** In my binder they are the same and it's labeled "Pumps in South San Joaquin Irrigation District" within the Oakdale application.

**MR. HONDEVILLE:** I apologize. That may be an error then.

**MS. TEN HOPE:** Okay.

**MR. HONDEVILLE:** I can supply you with the proper information. It should be two totally different lists.

**MS. TEN HOPE:** Okay.

**HEARING OFFICER FAY:** Does anybody in the audience, any of the parties out there have questions for Oakdale? Okay.

Without reiterating the points you've already made, is

there any wrap-up you'd like to make?

**MR. BARZAN:** It's the intent of the Oakdale Irrigation District to provide service to the constituents of the District. Currently we provide that service in the form of agricultural and domestic water delivery. The Irrigation District is committed to expanding that service to retail power distribution and it is the Oakdale Irrigation District's sincere belief that the community will be best represented by the local agency which is elected by the people that serve it. And I think I'll close with that.

Thank you.

**HEARING OFFICER FAY:** Okay. Then we will move to South San Joaquin Irrigation District.

**MR. HONDEVILLE:** Could I offer you an updated copy showing you the proper pump loads?

**MS. TEN HOPE:** I don't think that's a problem; is that?

**COMMISSIONER SHARPLESS:** Can we put it through staff?

**MR. KELLY:** We have the proper ones. I think what happened there were some copies just were mixed up. So we have them too. I think they've been submitted correctly in some folders and incorrectly in others.

**MS. TEN HOPE:** Okay. Well then I'll refer to someone else's.

**MR. HONDEVILLE:** Okay. We apologize for the mixup.

**MS. TEN HOPE:** It's okay.

**HEARING OFFICER FAY:** Okay. Jim and Linda, you have your questions for South San Joaquin?

**MR. HOFFSIS:** I have only one question.

When you look at this --

**PRESIDING COMMISSIONER ROHY:** Can we ask them to state their names?

**MR. MARTIN:** Rick Martin. I'm the General Manager of South San Joaquin Irrigation District.

**PRESIDING COMMISSIONER ROHY:** Thank you, Mr. Martin.

**MR. HOFFSIS:** In this application I think it's Exhibit E that's your list of customers?

**MR. HONDEVILLE:** Yes.

**MR. HOFFSIS:** And the question I had is I think I understand how this table was put together and what it represents. What I was curious about is of all of the non-dairy pumping load that was measured in kilowatts that was adjusted down, and I understand the legitimacy of the adjustment, was adjusted by 42 percent. I wondered exactly how do you -- what substantiation is there? What survey or whatever, how did you arrive at 42 percent?

**MR. HONDEVILLE:** We were figuring out that most of the -- we used about even though the farmers may only use the pump

for maybe three consecutive months, we were seeing a lot of action in PG&E's billing loads and showing active billing months showing it was relating to more like five months. They are catching both the beginning and the end of a billing period in most cases. So we saw about five months of billing for the actual consumption for irrigation pumping.

And that's how we spread a lot of this information. We maybe used 4.2 or 4.- -- some ratio in there that came from an average from our customers to determine this.

**MR. HOFFSIS:** So it's pretty much five is 42 percent? Is that --?

**MR. HONDEVILLE:** That was spread over the months. We took an average of about 50 or our deep well customers that we had and it came out to about that ratio. And we consider that ratio though the process to identify because every pump operates somewhat differently, but we figured that was the most --. We also took, because we're taking kW load.

In some cases we took customer information even though there was multiple pumps in some locations. They don't always operate at one time. We made additional adjustments for some of those loadings, and that's usually in a different column here as adjusted kW to horsepower.

**MR. HOFFSIS:** All right. Thank you.

**HEARING OFFICER FAY:** Is that it? Did anybody from

the Committee have questions?

**COMMISSIONER SHARPLESS:** Yes. I had a question regarding page 3 of your application where you make a statement that you're prepared to build a parallel transmission and distribution system in conjunction with leasing arrangements. It was "in conjunction with leasing arrangements" that I wanted to ask my question.

So this requires both? It requires parallel and leasing with PG&E?

**MR. HONDEVILLE:** Again, the leasing was a preference of ours. I think we failed in putting the application together if we were to not bring leasing into the forefront, that leasing would be ignored.

**COMMISSIONER SHARPLESS:** So you really don't meant "in conjunction." I mean it's not a proposal that requires both parallel building and leasing. It's an either/or?

**MR. HONDEVILLE:** Yeah. We feel that it may -- we don't think the economics are going to be severely affected because PG&E will collect their amount on leasing or we can look at construction costs. Because as Mr. Mount said that it really isn't that much of a difference between ownership and leasing.

**MR. MARTIN:** It is our preference though, you know, from a community standpoint and we think from, you know, our constituents that leasing is a much better option. Should that



not work out, then construction of new facilities is the answer.

**COMMISSIONER SHARPLESS:** Is your construction of new facilities based on a ten-year payback period?

**MR. HONDEVILLE:** Yes. This particular example did go out ten years showing that the Tri-Dam costs would be cutting in, actually seeing as a raise in costs and actually a decrease in cost as the cost was eventually paid off and revenues were coming in.

**COMMISSIONER SHARPLESS:** Okay.

**MR. HONDEVILLE:** And, you know, as the rates become more competitive as they --

**COMMISSIONER SHARPLESS:** I apologize. You have a very descriptive section about transmission access. I just got a little lost in it trying to figure out who was going to be building the distribution system and who would be responsible for it.

**MR. HONDEVILLE:** Well the Turlock Irrigation District certainly would be more than happy to construct the facility. We have, as I said earlier, the expertise to do so. We can certainly maintain and operate this facility for them if they chose to. Eventually they would, potentially I think take over their own operation of the facility as their expertise grows and as their customer base grows. But --

**COMMISSIONER SHARPLESS:** So would the arrangement be

that Turlock Irrigation District would build it and own it and lease it?

**MR. HONDEVILLE:** No. We would basically would build the line and either we would finance the construction and South San Joaquin would reimburse us for this, or there would be some other kind of a financing option made. But TID has plans to build that line. The nine-mile 115-kV line.

**COMMISSIONER SHARPLESS:** Okay, I'm just being a little dense here. You would build it.

**MR. HONDEVILLE:** Right.

**COMMISSIONER SHARPLESS:** You would operate it. You would enter into a contractual agreement with South San Joaquin.

**MR. HONDEVILLE:** That's one of the options. Or, they could choose to finance it outright and just pay us for the case-by-case maintenance or however they choose to do so.

**COMMISSIONER SHARPLESS:** And what are those choices based on? I'm not clear on how you're going to --. Is that based on how much CTC you get?

**MR. HONDEVILLE:** I think that would have that certainly has a --

**MR. MARTIN:** That has a big bearing on it.

**COMMISSIONER SHARPLESS:** You're currently requesting 11 megawatts.

**MR. MARTIN:** Right.

**COMMISSIONER SHARPLESS:** So is there a break point? I meant is 11 megawatts what you need in order to carry through this? Or if you get a lower ratio, you know the minimum is eight megawatts, what impact would that have on your proposal?

**MR. HONDEVILLE:** We'd like to see the 11 megawatts because at this -- the line extension for this particular project is about nine miles and a cost of this is a little bit greater on the recovery basis. We would like to see that allocation so we can meet our needs targeting the Escalon industrial customers and any additional load that we could build out to in that area to try to meet this allocation of --. It would probably require revisiting our calculators to determine what impact a less allocation would have on us.

Again, we weren't prepared necessarily for a less allocation. We tried to find that ideal size and went with that.

**COMMISSIONER SHARPLESS:** If you had a lesser allocation you would shrink the area of customers that you would be serving that would shrink the amount of infrastructure?

**MR. MARTIN:** And the feasibility of that initial extension would have to be reevaluated.

**COMMISSIONER SHARPLESS:** Okay. So 11 megawatts was the premise on which that extension would be economically feasible?

**MR. MARTIN:** Right.

**MR. HONDEVILLE:** We're also counting a lot of the Tri- Dam facilities is going to come in and offer this low cost power at a certain point.

**COMMISSIONER SHARPLESS:** But isn't that 2007?

**MR. HONDEVILLE:** 2004.

**MR. MARTIN:** 2004.

**COMMISSIONER SHARPLESS:** Oh, 2004.

**MR. HONDEVILLE:** And that could delay it somewhat. The line construction potentially due to take full advantage of layout service at later date, that ability to have that.

But I would like to think that it would work. I know it would work at 11, and I think we could revisit it for a little bit less but I can't exactly give you the guarantee right now.

**PRESIDING COMMISSIONER ROHY:** Are the economics predicated on having 11 megawatts flat load? Again, it's the same question as we had with Oakdale as the request here in South San Joaquin is for 11 megawatts in '97 and then continuing through the period.

Would the economics be greatly affected if the megawatts were sequenced and stepped up through the period?

**MR. HONDEVILLE:** Well there is obviously really nine miles of transmission line will take some construction time, and in this case it probably would not have an impact necessarily on '97. But '98 we'd probably like to see maybe the allocation just

rolled to '98 or something.

**PRESIDING COMMISSIONER ROHY:** And I infer from a statement on page 6 that you probably couldn't build out to Escalon until '98.

**MR. HONDEVILLE:** Wouldn't be completed probably until, if we engaged it --

**PRESIDING COMMISSIONER ROHY:** And you were relying on distribution from PG&E. If that were not available, would you request a different amount/number of megawatts in '97 until that build out were completed in '98?

**MR. HONDEVILLE:** That very well could be because I don't think we would have that ability to construct that fast. We will construct, but we do have some weather and some other issues we can't control and could limit us.

**PRESIDING COMMISSIONER ROHY:** Thank you.

**COMMISSIONER SHARPLESS:** Is there a possibility that irrigation districts and serving these various areas might want to get together and finance the distribution system? Is that contemplated?

**MR. MARTIN:** That's something that I can't speak for the other two districts, but I can say that South San Joaquin would be amenable to that.

**HEARING OFFICER FAY:** Any further questions?

Any questions from parties in the audience of South San

Joaquin Irrigation District? All right.

Without restating things you've said before, would you like to sum up?

**MR. MARTIN:** Sure. I think in Oakdale and South San Joaquin have had a long relationship in the power business and I think Rick Barzan, the Manager of Oakdale, kind of relayed that to you.

Both districts own four power generation facilities. We've owned those and operated those successfully in the last 40 years, starting back in the '50s. Those facilities are bought and paid for. They may have appeared speculative at the time, much like this may be. But the districts did get involved, committed to those projects and it has worked out very successfully.

We have 114.1 megawatts up there that is, you know, generating. South San Joaquin Irrigation District has another 6.4 located at Woodward Reservoir that it owns and operates, and also successfully since the mid 1980s.

So I think the two districts have a long history in power generation and in the power business. As Rick said, some eight years ago we initiated studies and always contemplated bringing the power down from the Tri-Dam facilities when the relicensing or the licenses expire in 2004 and we have to renew those licenses. In the meantime, we're under contract with PG&E. That's where the power has to go. And until that time, we can't

do that.

So this has always been something that the two districts have looked at, contemplated.

Now we're into a situation where we want to, you know, exercise that particular option of moving forward. It's been something that we've studied for, like I say, eight years ago. And it's still been there and we're committed to that process. We're committed to the generation. We always have. This is another step to providing our constituents low cost power, and we want to be a part of that if we can.

Thank you.

**HEARING OFFICER FAY:** Thank you.

All right. Next we'd like to hear from Woodbridge Irrigation District.

Please introduce yourselves to the record.

**MR. CHRISTENSEN:** Members of the Commission, good afternoon. My name is Anders Christensen. I'm the Manager of Woodbridge Irrigation District.

**MS. BOUGHER:** And my name is Nancy Bougher; I'm with the City of Lodi Electric Utility Department. We have been assisting Woodbridge in this.

**MR. KELLY:** Okay. On page 9 of your application, could you explain to me how you, with these wineries you define them as meeting our definition of --

[Disruption in proceedings. Lights went off and then came back on.]

**COMMISSIONER SHARPLESS:** Let's see, who is our service provider?

[Laughter]

**MR. KELLY:** There are three wineries hosted there. Could you just explain how you determined that they met the definition of agricultural pumping, ag pumping?

**MS. BOUGHER:** Well, each of the wineries shared their current PG&E bills with us. On various of the bills were specifically for pumping loads, for pumping loads within their winery. They use a great deal of water in there.

We also surveyed the wineries and interviewed the customers to decide how much of the load was for pumping, how much was for refrigerant and other purposes and divide those out.

**MR. KELLY:** But was ag pumping?

**MS. BOUGHER:** Yes. We did not include any refrigerant pumping in our pumping number.

**MR. KELLY:** Using your methodology that was described in your application, you determined that 13.383 kilowatts of pumping load, and you call that coincident irrigation load, is necessary to irrigate 32,132 acres of organized land within your district. Then you said an additional coincident load of 3,688.02 kilowatts of other pumping load is added. And you come up with a



total of 17,071.02 kilowatts down to the decimal.

The application asks for the purpose of allocating CTC exemptions that megawatts of load be defined as an average of a customer's monthly maximum loads estimated at or metered during the last 12 months. In Attachment F you show a total of 17 megawatts.

And this is on the ag pumping. I understand you have average loads for the commercial and residential. But on the ag pumping load you have showed a total of 17 megawatts of coincident pumping load. How many of those megawatts of load does this represent if it's calculated as directed in the application? Because it was required that it would be the average of 12 months, and you described that as coincident peak load.

And so I'm -- either the "coincident peak load" means something that I don't understand and you have done this calculation, or you are representing coincident peak load and haven't done the calculation as directed in the application. And I was wondering --

**MS. BOUGHER:** Well, we included coincident load in here because generally that is how a utility plans for its load is through its coincident load. If you try and plan resources through a utility through average monthly load you're going to come up short, is what it comes down to.

For irrigation pumping we estimate that approximately it

would be about two-thirds of this if we follow the Commission's schedule on here. For each of the others it varies. The District pumping load is also about two-thirds. The dairy pumping load is basically a year-round load. They have a very steady load year round.

The wineries and the canneries would also be roughly two-thirds. The packing is a fairly steady year-round load.

**MR. KELLY:** So for the record, just roughly, because what you have given to us and is coincident megawatts which is not in conformance with the application, would you like to amend that amount. You said roughly two-thirds of 17 -- Jim? -- is --

**MR. HOFFSIS:** Eleven.

**MS. BOUGHER:** I can provide you with some precise numbers on that because it's not two-thirds of every category. In some categories it is a hundred percent.

**MR. HOFFSIS:** By the end of the day possibly?

**MS. BOUGHER:** Depends on how early we get out of here. How do you define "the end of the day"?

**HEARING OFFICER FAY:** Now is this just a recalculation of information that they've already submitted to you?

**MR. KELLY:** Yes. They've calculated incorrectly and they provided the information but they didn't make the necessary adjustment for the average monthly load.

**MS. BOUGHER:** The reason why I say is these numbers are in my office. My office is some distance from here.

**PRESIDING COMMISSIONER ROHY:** Mr. Ratliff, could you comment on this?

**MR. RATLIFF:** I think they should provide it.

**PRESIDING COMMISSIONER ROHY:** That's acceptable?

**MR. RATLIFF:** Yes.

**PRESIDING COMMISSIONER ROHY:** And how soon could you do this?

**MS. BOUGHER:** Tomorrow would be much easier than the end of today.

**PRESIDING COMMISSIONER ROHY:** I guess I'd have to ask other people if there is a reason that they would protest that or that would not be acceptable.

**HEARING OFFICER FAY:** I think in light of the time constraints we've got that will have to be a requirement that it be in by tomorrow. And you can fax that to Linda Kelly or Jim Hoffsis.

**MS. BOUGHER:** Okay. That's no problem.

**HEARING OFFICER FAY:** And if you people would docket the transmittal, I'd appreciate that.

**MR. HOFFSIS:** Excuse me. Before we leave that page, we talked about wineries. Are all of the other pumping loads that are shown there associated with customers who are currently

receiving or eligible for agricultural tariffs from PG&E or Edison?

**MS. BOUGHER:** Yes, they are.

**MR. KELLY:** Have you looked into or do you anticipate any permitting problems or opposition from the city and the community concerning the construction of parallel distribution system? You indicate that that is what you plan to do. And I was wondering if you had anticipated any problem that would delay your application because of this from the community.

**MS. BOUGHER:** Well, I'll speak for the City of Lodi. This City of Lodi has their own electric utility. We have operated ours since 1910. I must say, we're older than Modesto if that helps our viability on here.

We are committed to assisting Woodbridge in this and assisting them with not only providing the power but building the distribution system, and there will be no opposition from the city. I think I can guarantee that.

**MR. KELLY:** Do you think there would be any from the community members?

**MR. CHRISTENSEN:** I'd like to address that. The number of the wineries, the parties on page 14 -- excuse me, page 9 of our application were interviewed and during those interviews there was the interviewees raised questions of reliability of the existing system. Not only was cost a factor in their interest in

this proposal but also within our area there has been serious questions of reliability.

The fact is, the power isn't on all the time within the Woodbridge area and with the wine grape industry the winery business, the packing plants, reliability is a key question. Not all of these entities have backup generation. Currently they have no other choice for power. So reliability is a key factor in this as well as the number of these entities would like to see some relief from the current power costs that they currently pay.

**MR. KELLY:** The reason I ask is that in some communities having duplicate distribution lines presents problems. And perhaps the wineries would, you know, for reliability would feel this was really a good thing to have. Sometimes other people in the community find duplicate lines less than attractive and would create some opposition for you on that. But you haven't noted any of that?

**MS. BOUGHER:** No. Every customer that we interviewed has been very support of these efforts. And as Mr. Christensen said, in large extent because they anticipate increased reliability.

**MR. KELLY:** Is ENRON going to be -- you indicate that they are a partner with you. And do you basically have a package from them where they would construct, finance, secure power for Woodbridge and their customers?

**MR. BURT:** ENRON has committed to assisting Woodbridge in financing the distribution system. We anticipate that the Lodi Electric Utility Department would handle the actual construction. And the City of Lodi and NCPA would handle the power brokering scheduling and providing of ancillary services.

**MR. KELLY:** So my next question was: Do you plan, does the Woodbridge Irrigation District plan to operate the proposed electric utility and would you or would you contract to somebody else to do that?

**MR. CHRISTENSEN:** The proposal as our board envisioned it is to strike an alliance with the City of Lodi and to utilize as much of their services in conjunction with the District that we can utilize in the area of generating the greatest efficiency for the customers within our area.

The City of Lodi has a very highly efficient electrical department. The wine grape industry and the City of Lodi have worked together in a number of other issues together with Woodbridge Irrigation District and as a community we're looking at this as sort of a regional approach to providing electricity within the rural area.

And again, I think the key concern has been the reliability of power service within the area. You simply cannot be without power for many hours during the key growing season, during the summer as we were this last year when most of the rest

of the State of California came on after the outage that left us without power. We were still without power. And to wineries that have product that they can't chill, to growers they can't utilize their drip irrigation systems, that's serious business.

**MR. KELLY:** In your application, and this just may be the words, but it just raised questions and there wasn't information to back up this concern I had.

You indicate that rates should be lower than those currently charged by PG&E. And I would assume that if you're going into this that rates are going to be lower than PG&E's or you wouldn't be going into this.

Do you have or have you done the numbers where you have an estimate of what the cost would be under your proposed plan and how they relate to the current PG&E rates that you have?

**MS. BOUGHER:** We have done numbers. We don't have the detailed analysis because we have not been able to get detailed numbers from PG&E. We did a survey of customers. We don't have information on every customer. PG&E refused to provide it to us.

However, we did a survey of the distribution system, what would be needed in the Woodbridge area. We believe that we can duplicate it for a lesser cost. We can feed off Lodi transmission lines into the Woodbridge area and provide economies of scale there, and provide lower distribution service than PG&E

is now.

**MR. KELLY:** So overall the overall package you feel would result in lower rate?

**MS. BOUGHER:** Definitely or we would not be recommending it.

**MR. KELLY:** But you have done those numbers?

**MS. BOUGHER:** Yes, we have.

**MR. KELLY:** Well, the question about the board, it appears that your board has worked closely with Lodi, so do you have a resolution from your board that would indicate that you intend to go forward with this?

**MR. CHRISTENSEN:** Yes, we do.

**MR. KELLY:** Okay. That's all my questions.

Jim?

**MR. HOFFSIS:** Just one, I think. The answer to your clarifying questions suggested that Attachment E numbers combined with some customer numbers shown on page 2 related to something on Attachment F. It's not clear at all to me what the flow of data is there. What is the relevance exactly of Attachment E to Attachment F?

**MS. BOUGHER:** What we did is we took the tax rolls for Woodbridge to determine how many residential customers there are, how many small commercial and medium commercial customers. This was our best source of information since PG&E would not



provide the information.

Then we took load data that Lodi has been developing for a number of years and took the 12 most recent months we had available at the time to determine what an average residential customer would use in this area. Basically multiplied the two and the averages and came out with the totals on Attachment F.

**MR. HOFFSIS:** Well, that's what I thought I understood, but I was unable to make any of those computations work. So that's what I'm needing some help with.

What number on page 2, for instance, would you multiply by what number Attachment E to get some number on Attachment F? Or if you prefer you could provide that tomorrow as well if that will move this along. That's the question of the nature that can easily be answered.

**MS. BOUGHER:** Well I don't have my calculator with me. You say basically multiply the number of residences by -- we have residences both with and without well water. So you multiply each class by in one case 2.1 kilowatts and the other 4.4 to come up with the numbers on Attachment F.

**MR. HOFFSIS:** Would you mind tomorrow in your submittal to provide one --

**MS. BOUGHER:** I will be glad --

**MR. HOFFSIS:** -- and then we won't bog this down.

**MS. BOUGHER:** -- to provide that to you.

**MR. HOFFSIS:** Thank you.

**MR. KELLY:** I have one more question. You've asked for a very large allocation here, and I'd like to ask the same question of you that we've asked of other irrigation districts. You've asked for 20 in 1998. That's a very popular year.

If you were to, as I've asked everybody else, get less or get the allocation spread over the following four years, would your project be viable? Or is there some, just cutting to the point, is there some point your project wouldn't be viable that you would like to share with us?

**MS. BOUGHER:** I believe we would have no problem being viable at eight megawatts or higher.

**MR. KELLY:** At eight megawatts in 1998. If that eight megawatts was divided over, is separated over the next four years, would that be viable?

**MR. CHRISTENSEN:** From my perspective, and I'll let Nancy speak from hers, but originally when the application was put together the CTC exemption that we were requesting was to be spread over the entire district.

And if you, in my mind with any of these applications if you pare down the request there will be choices made. Probably the most efficient customer to serve will be the ones, the largest customers are probably going to get the benefit of the CTCs while the little farmers, the growers that were most noted for serving

will be left out and will get the full benefit of any deregulation at a later point in time.

So, yes, we could make a viable project out of eight megawatts of exemption, but during the process some of the smaller users that truly would benefit from, for example, drip irrigation pumping probably might be left out. Consequently some of these are going to be left out anyway because eight megawatts would not cover our entire district.

**HEARING OFFICER FAY:** Questions from the Committee?

Does anybody in the audience have any questions of the Woodbridge Irrigation District? Okay.

Any closing comments?

**MR. CHRISTENSEN:** Yes. Just very briefly I'd like to say that Woodbridge together is proposing an alliance with a very old highly-reputable utility, the City of Lodi. It's a regional alliance to provide better service and lower rates to our rural customers. It will have benefits also.

In addition, there will be a benefit to the City of Lodi in their being able to utilize their resources more efficiently.

And I guess we appreciate the opportunity of being able to answer these questions today. Thank you very much.

**HEARING OFFICER FAY:** Thank you.

Okay. We'd like to move right ahead to Madera Irrigation District. Is there a representative from Madera

Irrigation District here? I see no response.

Are there any comments about the Madera Irrigation District application?

Okay. I guess we have no one for you to ask your questions of, so we'll have to move on to Laguna.

Is anybody here from the Laguna Irrigation District?

Please introduce yourselves for the record.

**MR. RAYNER:** Good afternoon. My name is Doug Rayner. I'm the Manager for the Irrigation District.

**MR. PROVOST:** Jim Provost, Engineer; with Mike Day, also an Engineer.

**MR. KELLY:** Actually, I just actually had a few questions for Laguna, and two of them had to do with PXC because -- and I asked those earlier of PXC because I do feel that if you do not have the experience yourself and you are relying on other people to provide that and to help you get into the business it was important that we understand what experience that PXC brings to this, brings to you as well.

So those were the two questions that I had and I already asked those questions of PXC. I believe that they have answered my questions.

And then that leads me to the two questions again that I have for everybody is concerning the board which I do know you have a positive motion from your board to go forward with this

process. Is that correct?

**MR. RAYNER:** Yes.

**MR. KELLY:** And the only other question I have then is that have you, within your community as well, we all know that customers who are going to benefit from this are all going to think this is a great idea. Do you have support from your community at large to support this idea in general?

**MR. RAYNER:** Well, Laguna Irrigation District is probably the purest irrigation district or form of irrigation district. We have no incorporated cities or unincorporated cities, and no heavy industrial within our district boundaries. We are purely rural and service the ag community.

When we had several public information meetings with the District we sent out a letter of interest and got an overwhelming response back. Probably 50 percent of the customers within our district boundaries responded and we -- which probably represented about 75 percent of the load within the district. We had favorable response from those people. So there is an overwhelming response for us to get into the electrical business.

**HEARING OFFICER FAY:** No questions from the Committee.

**PRESIDING COMMISSIONER ROHY:** You got off easy.

[Laughter]

**HEARING OFFICER FAY:** Does anybody in the audience

have any questions of Laguna?

**MR. RATLIFF:** Mr. Fay, if I may, I have a question.

**HEARING OFFICER FAY:** Sure.

**MR. RATLIFF:** In reading your application I noticed for distribution facilities you have an Option 1 and an Option 2. Option 1 is basically to have the PXC provide I guess through wheeling through PG&E's system provide electricity through PG&E's system without the construction or lease of any facilities. Am I correct in that understanding?

**MR. RAYNER:** Yes.

**MR. DAY:** There are some distribution facilities. And that would consist of a transformer placed at each service to replace existing transformer owned by PG&E, and then a service drop to a new panel and a new meter.

**MR. RATLIFF:** That would be the extent of your ownership of distribution?

**MR. DAY:** That would be the extent under the first option described.

**MR. RATLIFF:** The second option would be to lease from PG&E the facilities for distribution?

**MR. DAY:** Yes.

**MR. RATLIFF:** Okay. Thank you.

**HEARING OFFICER FAY:** Okay. Any other questions of Laguna? Comments? All right.

I'll reiterate that as we've gone along I hope any members of the general public realize that they are free to make comments after each applicant's presentation.

Laguna, do you have anything further you'd like to say and sum up?

**MR. RAYNER:** Well this is easy. No, we've tried to be as thorough as we could in our application and we're very committed and interested in receiving an allocation.

**HEARING OFFICER FAY:** Okay. We appreciate your coming up and helping us today. Thank you.

We'd now like to hear from Glenn-Colusa Irrigation District.

**MR. MUSSETTER:** Bob Mussetter. Good afternoon again.

**PRESIDING COMMISSIONER ROHY:** Good afternoon, Bob.

**MR. KELLY:** Okay. There were a number of questions that I have for Glenn-Colusa.

The first one is just a clarification. You indicate in your application that you do serve load adjacent to your district boundaries. Are you proposing in your application any load that would be exempt would be in these adjacent boundaries? It wasn't clear to me.

**MR. MUSSETTER:** No.

**MR. KELLY:** So all the load that you proposed to serve will be within the district boundaries?

**MR. MUSSETTER:** Within the external boundaries, yes. There were a number of cooks in the broth on the application and that particular sentence was inserted at the last minute I think by the attorney for the District. He was trying to do his job and he was trying to make things as clear as possible for you.

And it's true that there have been some deals in recent years on farmland in which the Irrigation District has had some surplus water I guess in certain years, wet years, that could serve to those lands that you describe that are outside the external boundary but adjacent.

**MR. KELLY:** CTC --

**MR. MUSSETTER:** So he was being meticulous, I guess.

**MR. KELLY:** Could you elaborate, in Section 3 there is a discussion, Section 3, page 3 of your application. And you indicated that you have been advised by Enova that Section 374(a)(1)e of AB 1890 does not say and it quotes exclusively served by that serving loads in part by distribution facilities owned or leased by the District would satisfy the requirements of the section.

I assume that this interpretation says that you wouldn't have to, that the District would not have to exclusively own all the distribution. Can you elaborate on that?

**MR. MUSSETTER:** Yes.

**MR. KELLY:** Do I understand that interpretation?



**MR. MUSSETTER:** That language is just another way of saying the same thing that several of the other districts have said, which is that some portion of the service, the end of the service could be construed as a distribution system in itself if you had those replicated. I'm thinking particularly of farmers' pumps.

You're not with me. You're shaking your head like you don't know what I'm talking about.

**MR. KELLY:** I don't understand.

**MR. MUSSETTER:** I want to stop now then. There's no use going any further until we get this clarified.

In other words, I want you to have the same vision in your mind that I do here.

**MR. KELLY:** Well, could we just maybe -- would it be helpful if we --. I think I understand a distribution system as having certain components, and that's what the legislation I thought had in mind is that the irrigation district would own or lease the distribution system that would serve the customers. And I envision that distribution system having substations, distribution lines, etcetera.

And it seems to indicate that you say your interpretation or Enova's interpretation would allow something less than that. And my question may be if it could be more specific then and ask a question is: What do you think that

amount is? How little do you think --

Well, we've all heard the Palm Springs argument that --

**MR. MUSSETTER:** Right, right.

**MR. KELLY:** -- distribution is a meter at the house.

I would hope that that's not the argument that you're arguing seeing that's already had a negative.

**MR. MUSSETTER:** It's not, but now you're getting down to it. I'm going to take a whack at this in my amateurish way, and then I'm going to let Richard Mrlik of PXC explain it.

This is an area that has not yet been defined. Certainly it hasn't been defined at the FERC except that meters aren't enough, meters alone.

There is a new case, I just read it yesterday, from the FERC, published December 31st, and that one is known as the Suffolk County case in New York. And on this point FERC has asked Suffolk County to resubmit its application, if it wishes to, to be more specific about just what distribution hardware they're going to provide.

Now what we envision providing to satisfy our state law is not only the meter, but a transformer, at least one pole, some wire. What else? In some cases in my canvassing the round I find there are all sorts of installations actually out in the field on customers' farms and it depends on what's being served. If it's just a single pump, that's a fairly simple -- that's the simplest

case.

But we also run into, more often than not, there's a cluster of loads and there will be several pumps served maybe even by the same meter in many cases because there's a lot of water to be lifted in one place in a canal. And also you'll find, for instance, a seed dryer that's a little heavier installation.

It's on the farm and so on, but it's still, one farmer told me just spent \$8500 on his electric service to service his seed drier. And he spent the money, not PG&E. So all that electric installation is his. All that PG&E did was bring the wires in and place their meter. And I guess in that case they must have put a transformer in.

The idea that you've referred to here really wasn't my original idea. I am indebted to Mr. Mrlik and his colleagues for pointing out that that can be just as valid an interpretation of 374 as any other.

Now I'll let him address the submit.

**MR. MRLIK:** I'm Richard Mrlik again of Power Exchange.

I think the option -- keep in mind that this is an option that Glenn-Colusa is proposing. And essentially it is to enter into a contract with Power Exchange to utilize its control area and transmission service agreement that it has with Pacific Gas and Electric Company.

I believe the Commission was furnished some copies of

this agreement. The agreement, Power Exchange and PG&E entered into the agreement on March 8th of 1995. This occurred before the December 1995 Decision and before AB 1890. The agreement was approved by FERC. And basically the control area and transmission service agreement is referred to as a CATSA. And the CATSA allows Power Exchange as a power marketer to purchase power from a number of generation sources, aggregate it, and sell it to a number of wholesale loads.

It's a flexible transmission service agreement that allows Power Exchange to deliver electricity in a transmission level down to distribution level service as low as 4.16 kV.

So it just appears to us that it's a very valid option that utilizes a FERC-approved transmission agreement which allows Power Exchange to provide service down to 4.16 kV. And in all the cases that the option is proposed, the service would be taken at 12 kV.

This option conforms with the state codes and I think we believe, and we don't really see what the problem would be with using the CATSA to deliver power to the IDs down to 4.16 kV. The transmission agreement is in place. We can provide electric power service down to those voltages.

So what we're proposing is to minimize the duplication of transmission and distribution facilities and take advantage of an existing agreement that is already FERC approved and comply

with the state law. And I think that's it in a nutshell.

Anyone that has spent the time to read the CATSA, it's a couple hundred pages so it certainly is a daunting task, but nevertheless, in there contains all the language that I couldn't even begin to articulate.

**MR. RATLIFF:** How is that consistent with the statute, the requirement that any load served be served by a distribution facility owned or leased by the irrigation district?

**MR. MRLIK:** The irrigation districts would own distribution facilities. I think the question is: How much distribution facilities would they own?

They would own distribution to the point that we have a FERC-approved transmission and distribution arrangement to get it to. In some cases it would be a 12 kV transformer going down to a number of loads, or it could be a transmission substation down to a number of loads. So it's a very flexible agreement that allows us to reach out to wholesale loads and serve them.

And so I think the question to what extent does it comply with AB 1890, I think it complies. Within every instance the irrigation district would have to own some distribution facilities. And in some cases they may own transmission facilities. Not transmission, but I mean transmission substation facilities.

**MS. TEN HOPE:** How is wholesale loads defined? If

you're allowed to deliver wholesale, wheel wholesale to wholesale loads, what's the definition distinguishing a wholesale load versus a retail load?

**MR. MRLIK:** I'm not an attorney, but I know the simple answer is wholesale is any sale for resale. And that's a Federal Power Act definition of a wholesale load.

I should say in PG&E's comment, I think they've correctly articulated the lack of definition as to what constitutes wholesale. And quite frankly, I wouldn't care to venture into that other than what we're proposing is using an already FERC-approved transmission tariff and build the necessary distribution facilities to be able to take advantage of an agreement that's already in place.

Once an interconnection agreement, in our contract it requires us to work through with PG&E. And I think any approach requires some cooperative negotiation with PG&E as we would with our tariff or with our agreement. And I think the advantages is it minimizes duplication of entire distribution facilities.

**MR. MUSSETTER:** I would like to continue the discussion of this on a little different track, the economics. PG&E, as you now all know because I included a copy of it in our application, has filed at the PUC in conjunction with some other matters that it has going on there, some request for some rather broad authority to compete against irrigation districts. And the

basic request there is for the ability to price at marginal cost plus 20 percent. And they're talking about marginal costs of their distribution system in that context.

I thought it was interesting to include their petition of November 25, 1996 not only so you'd all have it handy at your desks, make sure you all read it and were aware of it, but because it makes an interesting juxtaposition when considered together with this tariff that Mr. Mrlik has.

It seems to me, and I can't prove it, but it just seems to me almost evident on its face that PG&E is economically better off to go ahead and wheel the power for us under its deal that it has already entered with PXC and get those rates that are embedded in there. Which are, in case you haven't had the inclination to go through this 200 pager, they're about, what, \$1.65 for transmission and 3.35 for distribution per kilowatt month. Because I think those rates exceed marginal cost plus 20 percent, probably by quite a bit.

And since we're only really talking here -- if everyone including PG&E proceeds in good faith, about maybe 1997 because they're supposed to have open access tariffs -- Aren't they? -- in place by that time.

So why would they object to utilizing this tariff and becoming a "true wires company" as they say in their publicity releases they intend to become. The business of bundled electric

service is pretty well history. So I don't know.

I think the whole question -- I think if I put it as well as it could be put here in this, unless somebody else wants to try to improve on it, which they're welcome to do, but when I said when quoting the Section 374(a)(1)e, any load pursuant to this subdivision shall be served by distribution facilities owned by or leased to the district in question.

And we've suggested that since this section does not say "exclusively served by" that it opens the door to the District doing something less than building duplicative 12,000 volt lines out from a 60 kV lines which is a transmission line. We can get access to those all right either through this or by becoming a FERC 211 wholesaler.

Just sticking to this for a moment, what public policy is going to be served by forcing an irrigation district to build a duplicative line? The District can do it. Enova and the District can partner and do this and provide the capital.

And the District already has the right-of-way because if you study the way the land lies, almost all of the lift pumps in the majority of the District are situated along the canal. Because the only parts of the District that don't gravity irrigate from the canal are those that are adjacent to it, which some of them the fields are a little higher.

**COMMISSIONER SHARPLESS:** May I ask a question?



**MR. MUSSETTER:** Sure.

**COMMISSIONER SHARPLESS:** I'm getting a little lost here.

**MR. MUSSETTER:** Okay.

**COMMISSIONER SHARPLESS:** Back to Ms. Kelly's question which had to do with what precisely would the District be owning in terms of the distribution system. I'm not sure I heard the answer to the question. I heard the answer that it doesn't necessarily have to be a hundred percent ownership or lease by the District. There can be -- this is your interpretation.

**MR. MUSSETTER:** That's our position. Right.

**COMMISSIONER SHARPLESS:** There's a partnership, but I'm not sure that I could glean from the application, Mr. Mussetter, what part the District was proposing that they own. There's a lot of "we could do this" or "we could do that." But I couldn't quite get a sense of what the proposal itself was to be. Maybe you can help me out here.

**MR. MUSSETTER:** Well, that's going to be in the negotiations between the District and Enova and PG&E. So it's unresolved.

But I did answer the question, I think. I said probably the least configuration of distribution facility that the District would end up owning would be transformer, pole, wire and meter box and meter. Now that's more than -- considerably more than Palm

Springs proposed. Considerably more. It's probably a 3- to \$5,000 investment per service.

Now that's the minimum. If we have to, we'll build some 12 kV lines on the canal bank of the District, or acquire rights of way through the powers of eminent domain, which we have if we are forced to do all that.

**COMMISSIONER SHARPLESS:** Would your customers be concerned about reliability if there's not a clear -- when there's so many multiple parties responsible for different parts of the distribution system, how it's operated, how it's maintained?

Who do you call when I have problems with my distribution system? Am I going to be run around 15 different companies and 15 different people to find out who is going to come out and fix my line?

**MR. MUSSETTER:** No. You can answer.

**MR. MRLIK:** The answer is no. We are essentially renting our distribution facility. So PG&E is still obliged if a 123 kV line gets knocked down, they still are obliged to come and fix it.

The extent of the facilities owned by -- I mean to the extent of distribution facilities owned by the Irrigation District, they then would be obliged to fix that. And that would be from whatever service voltage they took. Which in this area presumably it's going to be 12 kV down to the service level

voltage.

**MR. MUSSETTER:** I'd like to continue that.

I'm glad to have your question. I really am. Because we can do nothing but improve on this present situation. If a customer has a problem today with PG&E, they end up talking to some person in Southern California or even out of state. It's just an answering service. And our farmers in particular are not used to this and don't like it. It's very poor customer relations.

They have been in the habit in the past of being able to talk to somebody who is fairly local in PG&E and who knows what they're talking about when they talk about Lonestar and Abel or something like that. Today it's all been -- there's a tremendous space that's been introduced between the customer and the company. And in fact, I don't think right now that if you look in the Colusa County telephone book that you can find anything other than an 800 number listed for PG&E, even though they have an office in Colusa.

**COMMISSIONER SHARPLESS:** Mr. Mussetter, I appreciate what you're saying. I'm really trying to stick to the application and not to PG&E. I'm trying --

**MR. MUSSETTER:** Well, but that's responsive in part at least to your question; isn't it?

**COMMISSIONER SHARPLESS:** Well, it tells me the

problems that you have now with an existing provider. I'm trying to figure out the viability of an application that's before us, not what the current situation is.

So I'm just trying to sort through if I could get some kind of feel whatsoever about who is going to be responsible for what part of the distribution system and how viable that makes the overall project. And I didn't get a clear sense from the application on that.

**MR. MUSSETTER:** Let me go a little further because --

**COMMISSIONER SHARPLESS:** Leaving PG&E out of it, unless you're talking about leasing their lines.

**MR. MUSSETTER:** It does need to be discussed.

We look at this as there are several levels, the most of acquiring the distribution. And the first and most preferable to us and I think to this community would be the one we're talking about now: using the existing tariff.

Failing that, we would then file with the FERC for 211 status as a wholesaler. And then, I don't know if you noticed in our application, there is a lot of 60 kV transmission lines running all over every place. And they are in the right places. And that would enable us to take off of there, but it would require negotiating with PG&E for the interconnection agreements and so on. And we'd have to put in some substations and some 12 kV lines.

**COMMISSIONER SHARPLESS:** When you say "we" are you referring to the District or are you referring --

**MR. MUSSETTER:** The partnership of the District and Enova, right.

Perhaps an intermediate step would be to negotiate with PG&E for releasing of the lines. And they have said in several of the applications as you'll notice, the same letter, and we're fairly comfortable with assuming that the same policies apply to us, that once they see who has the allocation that they'll talk to them about leasing some lines.

PG&E lays on certain conditions that they want to see that the District has the ability to build other lines which would then therefore strand their lines. And then and only then will they get serious. And I think that's what Mr. Manheim has already said at least once today.

So we're aware of all that. And there are some other options as you probably all know and I'm constrained from enunciating what they are. But you're well aware of some other possibilities.

So I don't know what to tell you. You're going to have to make the decision about viability all right. But when you do that, I don't think that this is a reason to strike out this application, certainly in light of everything else that's happened all over this state. I mean it isn't just in Merced.

Trinity County has their own. They are much smaller than we are. They just took over all of the facilities up there and they have their own utility now. That's happened in the last dozen years or so.

Portions of Lassen County and Susanville have done the very same thing.

I believe it was Tuolumne and Mariposa, or Tuolumne and Calaveras Counties ended up negotiating a deal with PG&E for the very same thing. They didn't build their own. They ended up negotiating very favorable arrangements. It goes on and on and on.

**COMMISSIONER SHARPLESS:** Thank you, Mr. Mussetter. I think perhaps I've gotten as much as I can get on this question, and would suggest to throw it back to staff questions.

**MR. KELLY:** I have enough information on this.

**MR. MRLIK:** Can I just add one thing?

And because you referenced the viability of the plant and utilizing the CATSA. The CATSA is an approved agreement. It's already in place. It allows virtually every district here to do what we're proposing, and it does require an interconnection agreement with PG&E as would any other plan require an interconnection agreement with PG&E.

So all things being equal, I think the main advantage is that it requires less construction and they all require an

interconnection agreement with PG&E. That's very clear in our agreement, but it's a very viable option.

**COMMISSIONER SHARPLESS:** I guess it just gets to the point that was raised by our attorney concerning the language within the bill that talks about districts either owning or leasing facilities. And I don't know that the bill contemplated at the time the fact that there might be these kinds of partnerships formed and that other than irrigation districts might be the owner and leaser of these distribution lines, at least portions of them.

If you were to go away, if something were to happen, if conditions weren't being met, if Glenn-Colusa got upset with Power Exchange Corporation, what would happen to the system?

**MR. MRLIK:** Which system? PG&E system would still be there.

**COMMISSIONER SHARPLESS:** No. The connectors that you would be providing to the District.

**MR. MRLIK:** No, they would own those. That's their facility. We're just providing transmission service.

**COMMISSIONER SHARPLESS:** Okay. Well then I guess I totally misunderstood what we were talking about in terms of what --. Transmission is one thing, distribution is another.

My question when specifically to distribution and whether there was going to be a joint ownership or leasing of the

distribution system.

**MR. MRLIK:** We have the ability to get down to distribution level voltages via this agreement with Pacific Gas and Electric. So once we reach the end of our agreement physically or with the voltage level, then they would build distribution facilities from the end of where we can deliver, they are an output point -- again, it's subject to an interconnection agreement with PG&E -- and they would take deliver through their distribution. That's Glenn-Colusa and any other irrigation district.

And the AB 1890 also recognizes in a prior section all existing FERC arrangements. And this is a prior-approved FERC arrangement, FERC agreement.

I mean I think it's in our view it's the most viable to get in the business quickly. And pursuant to interconnection agreements which we all have to go and get from PG&E, we are aware of that. And if we were to do any transmission level service, we also would have to get an interconnection agreement with PG&E. There is no greater uncertainty.

**COMMISSIONER SHARPLESS:** Then I guess I turn to the staff. Does that answer your question, staff?

**MR. KELLY:** We have enough information and then we'll consult with our attorneys about this.

**COMMISSIONER SHARPLESS:** Yes.



**MR. MUSSETTER:** There's just one more thing though. I mean I'd like to finish up that discussion by saying we don't want to strand PG&E's wires if we can help it. We don't see any point in it. But to accomplish that requires a certain measure of cooperation from them.

And you have to realize that that's just what's out there. I mean that's the way the world really works.

**MR. KELLY:** Okay. I have one question, and I'd like to just diverge just slightly on this question.

This is a question that was brought up by Glenn-Colusa which has to do with these conversion factors. And even though, you know, they are currently right now answering questions, this is an issue that affects the other irrigation districts.

And if it would be okay with the Committee and the Hearing Officer, I'll ask this question of Glenn-Colusa and if other parties here have comments on it, could they just offer them after Bob has finished offering his?

**MR. MUSSETTER:** If he ever does.

**HEARING OFFICER FAY:** You mean right after his question is addressed?

**MR. KELLY:** Right, yeah. It's just sort of my last question and we were trying to rather than ask and discuss this with every individual person, we thought Glenn-Colusa brought this up as an issue, we would discuss it with them, get his opinion.

And then if any other person with regard to these conversion factors of the horsepower to the kW had a comment they could just offer that. Would that be agreeable?

**HEARING OFFICER FAY:** Sure.

**COMMISSIONER SHARPLESS:** It's fine.

**HEARING OFFICER FAY:** Yes, if there's no other questions from the Committee, why don't you go ahead. And that's your last question?

**MR. KELLY:** Jim has one also.

**MR. MUSSETTER:** Well, I know what the question is.

**HEARING OFFICER FAY:** If you're going to open this up, why --

**MR. KELLY:** Should I wait.

**HEARING OFFICER FAY:** -- don't you make it the last question.

Jim, go ahead and ask yours.

**MR. HOFFSIS:** This one is far more prosaic.

What is the megawatt allocation that you're seeking?

**MR. MUSSETTER:** Eleven.

**MR. HOFFSIS:** All right, 11.

**MR. MUSSETTER:** Eleven depending on the outcome of this next question.

**MR. KELLY:** Okay.

**MS. TEN HOPE:** I have a question before we get to

that broad based.

Can you help me with what the farm pump tables represent? In the farm pump tables I can't tell whether they're attached to customer load that's documented anywhere else. Those pumps have been used in the last year or whether these are standby pumps. If you could shed a little light on what the pump lists are.

**MR. MUSSETTER:** You're talking about this listing?

**MS. TEN HOPE:** Right. There are several lists, the white binder, the black binder.

**MR. MUSSETTER:** Right, right. Okay.

Those particular pumps are owned by farmers and land owners, and the pumps are situated within the boundaries of the District. And the District took a survey to find out how many of those pumps -- or they're wells, basically -- that there are in the District. They started surveying this, I don't know how long ago. But it was, I think, two or three years ago. And probably longer ago, come to think of it, because it would have been in the seven-year drought period.

But that's why that information was on hand in the District. The black binder/white binder business, I didn't know myself. It's just there's no difference for our purposes here between the two.

In one case they're using a Glenn ranch survey, legal

description of some properties, and any other is normal township and range. It has nothing to do with that.

So as to the usage of those, we don't have the finest data in the world on that. But those two big farmers whose bills I submitted with some summary data are, we believe, representative of what goes on.

And some of the pumps are used probably only in a dry year, but it's not just a dry year/wet year thing at all. Turns out when you sit down and take some time and ask a farmer how he really does these things, the ground water has a little bit more salinity in it than the river water. The river water is very pure.

And I don't know if you've every run across this, but it's an old, old saying something has been known for many years that a little bit of salt in the water helps the water to penetrate the soil in farming. So they're using those pumps even though the District has surface water, plenty of it, in the canal. Or even though the farmer has already paid for the use of the District water and it wouldn't cost him any more to use some more it, but he'll use some on some tomatoes or some other row crop to get that penetration.

And then there's another factor up there, and that is in the part of the District where those pumps are concentrated, which is northeast of Willows, the rice fields that are in there, a lot

of them are very porous because that same water table comes very close to the surface, the gravel stratum and the water percolates right back down. So they're just pumping water around in a circle. And they can use as much as nine acre feet, maybe ten acre feet of acre per water for rice. Whereas in a clay soil they'll use only six or seven acre feet, so it's 50 percent more.

So that's probably more than you want to know about that. I mean I could go on, but --

**MS. TEN HOPE:** I'd like to ask a related question.

On page 15 there's the GCID analytical data. What's the source of the kilowatt and annual kilowatt hour usage? Is this taking -- is this making some sort of estimate based on the farm pump tables and how much they're used or is there another source for us to come up with this?

**MR. MUSSETTER:** Is that this Table 10C?

**MS. TEN HOPE:** No. It's the one that looks like this.

[Ms. Ten Hope displayed the sheet of paper for Mr. Mussetter.]

**MS. TEN HOPE:** The replacement table was --

**MR. MUSSETTER:** Oh, okay. Here it is. This is the one that I submitted late that was -- is that the one you're looking at? It's got 11 megawatts? What's your question?

**MS. TEN HOPE:** What's the source of the kilowatt hour

information? Is this assuming an average load factor for the pumps that are listed that we just talked about, or --?

**MR. MUSSETTER:** Yes, that's your Column G and H, you mean?

**MS. TEN HOPE:** Well, all of them really. I mean the Column D as a kilowatt summary and then F is a kilowatt hour summary. How did you calculate what these kilowatt hour estimates are? What's the source of the ag pump versus other pump/non-pump load?

**MR. MUSSETTER:** Well, all right. The work that we did with the representative farm pump bills came up with three load factors: .44, .48 and .51. We settled on .46 as being typical of those, of all of these electric pumps. The load factor for industrial is .6 that we're using here. And that's a conservative.

That's a low number because our industrial, ag industrial accounts or customers are, particularly will be rice mills. And a rice mill operates around the clock, just about 365 days a year. It's a very flat.

**MS. TEN HOPE:** So you've got a sample load factor --

**MR. MUSSETTER:** Probably like an 80 to 90 percent load factor, see. So to use a 60 percent load factor for all these industrial customers is actually hurting ourselves. That's a low number.

**MS. TEN HOPE:** So you took a load factor number times the pumps that are in the back?

**MR. MUSSETTER:** Well, you can figure it out here. In Column E you've got the hours per year. The Column D you've got 1100 kilowatts. It's 20 percent of the 11,000 or 20 percent of 11 megawatts the first year, 1997. And you divide that in half you've got ten percent.

**MS. TEN HOPE:** You have a couple sample customers. Is this just a summary of those sample customers or how did you estimate what the other customer load was going to be that you would multiply those load factors times? Do you have customer bill information or are you using the horsepower --

**MR. MUSSETTER:** Yes, we do. No -- well, we had both. We have horsepower and billing for farm pumps, and then we have customer bills for rice mills and some others.

**MS. TEN HOPE:** And then estimated how many farm mills you have and came up with this total?

**MR. MUSSETTER:** The rice mills are so big they swamp this. I mean they can absorb all of this and much more. I mean 25 million kilowatt hours a year or something like that just by themselves. I mean, we're --. That's not our problem.

**MS. TEN HOPE:** Okay.

**MR. HOFFSIS:** One more, perhaps?

One page 6 you reference customers such as Morning Star

was one of the customers you mentioned --

**MR. MUSSETTER:** Yes.

**MR. HOFFSIS:** -- which you classify as agricultural. And those, I want to verify is that customer and customers like those actually receiving, are eligible for agricultural tariffs?

**MR. MUSSETTER:** Well, you make the call. Morning Star is a two-year old tomato paste plant that is capable of processing 800,000 tons of tomatoes a year. It operates from about late June until the first week or ten days of October.

It has 3- to 4,000 horsepower on the premises in the buildings and then some more wells, two or three wells on the property. I don't know exactly how many, but they're big ones. I think there's a 300 horse and a 200 horse. And 80 acres of cooling ponds and settling ponds. They wash the fruit off, the dirt is carried out. That's how they unload the fruit.

The plant has about two megawatts of cogeneration capability built into it because it has a big gas-fired steam boiler for the cooking.

When we get the allocation here, which by the way, you've talked about that today, we view that as that revenue as a jumpstart. It's a good thing for to get the business started without a great deal of outlay.

But anyway, I've talked to the owner, the principal owner of Morning Star about this and said when we get the



exemption and we know how much we have and where we're going here, then settle some of these policies, then will talk to you about what you want to do.

But as far as customer interest is concerned, you haven't touched on that with us, but people are prudent. They are cautious. They're somewhat, some of them, skeptical.

But at the same time they are all interested because the prices being charged in the recent years are so high, and they're aware of it. And they don't live in a glass cage. They know that right up the line in Redding the rates are about eight cents, and in Oregon they're less than that. And you know, it makes the papers now and again.

So what we've endeavored to do here in all this is not to overstimulate our customers and get their hopes up too high. That's why we didn't put out a letter of interest. We could have done so. And we just didn't think that was a good idea at this point. But we won't have any difficulty being in this business and selling the power that is represented here certainly.

We have longer term plans and ideas involving a substation from 230 kV to 60 kV at the corner of Lurline Road and where the WAPA lines crosses the 99W, and that would not be dependent on this. So I'll just leave it at that for now, I think.

**HEARING OFFICER FAY:** Do you want to ask your last

question?

**MR. KELLY:** Okay, fine.

In the Glenn-Colusa application, you asked that the Commission clarify how the conversion should be made from horsepower to kilowatt. And indeed when we looked at all these different applications we realize that the districts had -- several districts had made this conversion in a variety of ways.

And so what we'd like to do is to establish a consistent uniform formula for making this conversion, especially looking towards compliance at the end more than, you know, even right now. This is important for compliance.

So we would like to hear your reason for choosing the conversion you used, and then ask others who have used a different conversion to just very briefly explain to us why they felt that the conversion that they used was appropriate.

**MR. MUSSETTER:** Well, we were trying to be conservative and we passed over this probably without enough reflection. But the .746, as I understand it, is a sort of a pure theoretical ratio.

Now I think personally now, after digging into it some since then, that one-to-one ratio that's been used by several others, including Fresno and Modesto apparently, actually reflects the amount of power that it takes to produce that much mechanical power, because there are losses all along the way.

It has to do, I guess, with the design of the bowls and the pump and probably, you know, the level of the lift at the time and water tables fluctuate and a lot of variables we needn't go into.

So I don't think there's any magic here, but there is one thing. If the others use one-to-one, then we want to use one-to-one. You can understand that. And so our application would suddenly come from 14.75 megawatts instead of 11 in view of that.

**MR. KELLY:** So you would acknowledge that the one-to-one type ratio does incorporate the efficiencies that are lost and --

**MR. MUSSETTER:** Sure.

**MR. KELLY:** -- probably more appropriate.

**MR. MUSSETTER:** Right.

**MR. KELLY:** Oakdale used a slightly different one. Could Oakdale -- is there somebody here from Oakdale? Nobody hear from Oakdale. They used --.

Laguna?

**MR. MUSSETTER:** They know all about it.

**MR. KELLY:** And Fresno was the other one.

**MR. MOUNT:** I want to comment on that because we used two different compilations. One was for our ag water pumping where we have informed by PG&E that there is a 70 percent

efficiency for the ag water pumping and that has to do with -- we're talking about the bowls in the pump. They are eaten up by the sand and, you know, they wear out. They're in the weather all the time and they are much lower efficiency.

We've used the 7.4 -- .747 factor for all of our other pumping loads, ag pumping loads other than ag water pumping. You find that in our application. So I want to make sure that if there is any conversion or re-conversion or adjustments of the application that we don't adjust our entire load, but only the portion that needs to be to match it with the other conversion factors.

Thank you.

**MR. KELLY:** Okay.

**MR. MUSSETTER:** We have no trouble with that.

**MR. DAY:** Mike Day with Provost and Pritchard. We're Laguna's engineer.

This issue in Laguna's application what we did is we strictly adhered to the CEC's published methodology which is you go back to your 1996 actual bills. If it's a demand metered account you average the 12 months created demand that appears on the bill and you get your number. If it's a non-demand metered account, you take your usage in each month, you divide it by that appropriate load factor for each month and you average 12 months.

And we were instructed to do this, and we did that. And

our position would be that ultimately everybody should be brought back to that same criteria which is when you get your signups you'll need to go back to your 1996 bills for those people and demonstrate what the kW actually was. Otherwise, you're going to have a lot of different ways of calculating this and you open a whole can of worms.

So that's our position.

**MR. HOFFSIS:** Excuse me. You did use some horsepower conversions, though, in your Attachment G.

**MR. DAY:** The only horsepower conversion that we did is we had signups during our brief signup period we signed up -- was it 9.2 megawatts?

Because we didn't hear from a significant portion of the customers and we felt like we needed -- we wanted to ask for an allocation for others that we hadn't heard from. In order to adjust up, we took the actual kW number that we calculated going through everybody's bills and we adjusted it up in proportion to the connected kW that was represented by the entire District rather than just who signed up. Or in proportion to the connected horsepower, actually.

**MR. HOFFSIS:** Yes. And then in converting that horsepower then to kilowatts you --

**MR. DAY:** We did it that way basically you end up you're just taking the connected horsepower, the ratio of

connected horsepower of the potential people that are out there divided by the people that actually signed up, multiply it by the kW that we calculated.

**MR. HOFFSIS:** And then you had another conversion for pumps run by engines that you were expecting to convert to electric?

**MR. DAY:** Right now that's an issue that is not been discussed here. Our understanding in reading AB 1890 and other proceedings of the deregulation process that accounts which were not active at the end of 1995 or December something 1995, any new accounts brought in after that date would not be subject to CTCs.

And so we felt like there are a lot of engines in Laguna, and so we were not asking for exemptions for those engines. We feel they are already, by statute, exempt.

But we did want to answer the Commission's question about the load that Laguna would serve. We had a lot of the engine customers come to us and say: Hey, if you can cut my electric bill, I'll go back to electricity.

So we wanted to show the Energy Commission that those would-be customers of the District even though we don't want to ask for an exemption for those customers.

Anyway, that unnecessarily complicates things.

**MR. MRLIK:** Can I comment on Lower Tule and Pixley? Where we had demand meter we used actual demand monthly.

Where we didn't have demand meters we went by horsepower and multiplied it by 75 percent, and then used the profile from the demand meters for the water pumping loads.

**MR. HOFFSIS:** And as you heard, Modesto and Fresno converted those pumping horsepower to kilowatts at a one-for-one ratio, recognizing the efficiency of the motor itself. So would you --

**MR. MRLIK:** We were much more conservative. We did it .746 kilowatts per horsepower, and then times kind of an average factor for the year. So the whole thing ended up being about 55 percent because those ag pumps are usually on seven/eight months of the year, and you have a few months where you have nothing. So that's the sort of profile you follow.

**MR. HOFFSIS:** I understand the profile. To get the number to which to apply the profile so that we have some kind of consistent evaluation of applications across districts, would you regard the one-to-one ratio as more appropriate?

**MR. MRLIK:** Yes.

**MR. HOFFSIS:** And you've have no problem with that? That would actually works to your advantage.

**MR. MRLIK:** It would work to our advantage, yes.

**MR. JEFFERS:** Ed Jeffers from Modesto Irrigation District.

As been said before, we did use a one-to-one conversion

factor and we think that that appropriately counts for the motor efficiency and overload adjustments that we find for motors applied in our area.

I would like to be clear, though, that we didn't use that where we had better information available. Accounts that were demand metered, places where we did load projections based upon loads that were extrapolated from load research meters that we have. It was only used for mixed accounts where we had to estimate that fraction of ag pumping load as a portion of the total demand.

And if a decision was made to mark down that ag demand for some reason, we would have others from further down on our priority list to move up into our application to keep our total requests the same.

**MR. MUSSETTER:** I wasn't given the opportunity to --

**HEARING OFFICER FAY:** Just a minute. That's it for the staff's questions?

**MR. KELLY:** Yes.

**HEARING OFFICER FAY:** Okay. Are there any other questions from any of the other parties on Glenn-Colusa?

Yes, Mr. Manheim.

Let's take this, Mr. Mussetter, and then we'll let you wrap up.

**MR. MUSSETTER:** Yes. That's fine.



**MR. MANHEIM:** I think I should just clarify things a bit about the Power Exchange CATSA from PG&E's perspective. The question of whether service could be used under that agreement to serve retail customers is by far not a settled question. It's one that will be very controversial.

One thing that is clear is that the CATSA agreement of Power Exchange cannot be used to serve retail customers. The agreement also provides that PG&E is not obligated to provide services if it has the effect of transferring an existing customer of PG&E.

The agreement is something that I'm very familiar with. I had the pleasure, perhaps displeasure of negotiating with Mr. Greenwald here the Destec CATSA which is a carbon copy of the Power Exchange CATSA. And you may be aware of the dispute we had with Destec in Modesto about the Praxair transaction in Pittsburg in which it was asserted that by Modesto owning a substation serving Praxair that would qualify as wholesale service and something that would be available under the Destec CATSA. That's an issue that we've disputed at FERC and in the courts, and are still working our way through it.

So I just -- it's true that the CATSA is an accepted FERC tariff for wholesale customers, but the dispute that I think we will get into is by virtue of a meter plus a drop line plus something else, does that transform retail customers into

wholesale customers? And FERC has said that in the case of a meter in the City of Palm Springs, no, that doesn't transform them.

It's not clear how far up the line you have to do in FERC's view to transform that into a distribution system which converts the status of these customers to wholesale. So it's an issue that, you know, we will face down the road. I just wanted you to be aware of that for your viability assessment.

**MR. MUSSETTER:** Could I ask Mr. Manheim one question?

**HEARING OFFICER FAY:** Sure, while he's up here.

**MR. MUSSETTER:** What, if any, changes have there been to the Destec CATSA agreement that you say is a carbon copy?

**MR. MANHEIM:** We have tentatively settled the Praxair type of dispute with Destec and we filed to modify the CATSA. That amendment hasn't been accepted yet with FERC. But that amendment does clarify that the Praxair type of transaction would not be allowed under the CATSA.

**MR. MUSSETTER:** Is that public record, the settlement?

**MR. MANHEIM:** The amendment to the Destec CATSA is public. It's been filed with FERC.

**MR. MUSSETTER:** Would you be willing to furnish a copy of it to us?

**MR. MANHEIM:** Yes.

**MR. MUSSETTER:** At this time?

**MR. MANHEIM:** I don't have it with me.

**MR. MUSSETTER:** I know. Okay.

**MS. TEN HOPE:** So the tentative settlement is the distribution from meter up to the substation was not enough distribution? Am I understanding this correctly?

**MR. MANHEIM:** Well, the agreement is that Destec cannot use the CATSA to serve. It's a several paragraph and the effect is it clarifies that ownership of the substation does not constitute distribution for purposes of converting customer to wholesale status. It doesn't provide an absolute answer on what is necessary. It does clarify the substation, the Praxair example is not sufficient to turn that into a wholesale load.

But I can't say that acceptance of that amendment will shed light on the issue for those who then try to add, you know, a drop line beyond the substation.

**MR. MRLIK:** Can I comment because it directly is talking about our agreement?

And I guess I don't want to take the opposite side of Mr. Manheim, he does such a wonderful job with his girl; I wish he could help me with my kids.

But you know the Destec is currently serving a distribution level customer at the Port of Oakland. And I think that the issue of "Is this a viable option?" I think it's fair to

say that everyone is going to have to go through some level of negotiation with PG&E.

I mean the use of our CATSA is not necessarily for distribution level. It's more than just a drop line. It includes a transformer. It could include a line from the transformer to four or five different loads. So I think he's given the absolute minimum amount of distribution facility. But it's a very flexible tool.

And so I think everyone is going to have to go through some process of negotiation regardless. We happen to have a tool that we're already further down the road than anyone else because we have a transmission agreement. That's in place. It's FERC approved. We have an interconnection agreement that we need to negotiate, so I think the viability of this plan vis-a-vis any other plan using the CATSA, we all have to go through the same negotiations.

**HEARING OFFICER FAY:** Do you have something to add, Mr. Willoughby?

**MR. WILLOUGHBY:** Yes. Tom Willoughby from PG&E.

Just to follow-on on another aspect of what my colleague Mr. Manheim has said. I think there was a reference somewhat oblique to, or at least an allegation that there is a provision in AB 1890 that appears to sanction or recognize these FERC arrangements.

And the only provision in AB 1890 that I believe deals with this, if my memory serves me correctly, it's the last paragraph in Section 369, which has nothing to do with this at all. The last paragraph in Section 369 was placed there at the request of the Metropolitan Water District, and it's intended simply to say that the CTC requirements of AB 1889 are not applicable to any FERC approved transmission arrangements.

And that was kind of what we all jokingly characterized as MWD's belt-n-suspenders provisions of AB 1890 since CTCs were never intended to apply to transmission service. CTC was something that the end-use customer would otherwise be obliged to pay unless there were some exemption for the end-use customers.

So to the extent that there's any confusion about that last paragraph of 369, that is intended to say -- and I just talked to the MWD representative about it this morning and he agrees that that's just intended to say, look, you know, in case anybody has any doubt whatsoever, CTCs just aren't applicable when you're talking about FERC-approved transmission agreements, which is kind of a no-brainer.

Just that loose end I wanted to kind of tack it down from my view.

**MR. MUSSETTER:** Don't run off, Tom. What's this language here at the bottom that says transmission services provided to any irrigation district described in paragraph one or

two shall be provided pursuant to otherwise applicable tariff?  
What's that mean?

**HEARING OFFICER FAY:** To what are you referring, Mr. Mussetter?

**MR. MUSSETTER:** Where?

**MR. WILLOUGHBY:** That's not a FERC reference. That basically is a provision -- I'm sorry Mr. Boccadoro isn't here, but that was simply my recollection is to say what is intended, you know, that you charge the applicable tariff. Just what the words say, that, you know, that any transmission agreement that you might have, what you charge is what's in the tariff.

**MR. MRLIK:** I suggest we're kind of going beyond the scope of what we're trying to accomplish here.

**MR. MUSSETTER:** I'll show you later.

**MR. MRLIK:** We recognize this is an issue that has to be resolved, but anytime you're trying to get an interconnection agreement with a utility you have issues to resolve. And I think that's a point.

**HEARING OFFICER FAY:** Okay. Are there any other questions of Glenn-Colusa or comments on their application?

Okay. Without going over points you've already made, Mr. Mussetter, could you wrap up?

**MR. MUSSETTER:** Your reference that you wanted, Mr. Fay, is 374, little a, 6. Okay.

I didn't get a chance just to give a little background on the District. It's an old district. It's been in business for about a hundred years. It has 692,000 acre feet of prime water rights that are ahead of anybody's water rights, the federal or the state government or anybody else, on the Sacramento River.

They have 4500 horsepower of pumps at the point of diversion from the river above Hamilton City, and they have a 3.3 megawatt contract with WAPA to provide power to those. And that's excluded from any of this proposal here.

The big thing at the Glenn-Colusa District, the big dynamic these days is the fish screen under the federal environmental laws that's been imposed upon the District. The District has had fish screens in place for many, many years, but the environmental people were not satisfied with it. So the standard is one fish, and the size of the fish is something very very tiny, just hatched. And they have the right to divert 3,000 cubic feet per second of water. So it's hard to imagine how they're going to do that, but they've actually succeeded in designing something that seems to work and will do what's required.

They are under court order to build this facility, and it's a large facility. It's now estimated to cost \$50 million or more. It is hoped and expected that between the federal and state governments that eight-seven-and-a-half percent of that will be

provided by those two governments. The District has five-and-a-half million dollars in escrow right now pursuant to it so they would be well able to complete the project if the government financing comes through as planned. If it doesn't, they're going to be scratching.

But having that hanging over their heads is why they haven't taken a more personal or active role and why you see me here all the time, because otherwise their manager would be down here probably at least part of the time. But he's been told by his board -- the board voted on this, took action, and said yes, go ahead and file the application.

And we've been quite candid and forthcoming and all that. Obviously, the District will be quite interested in pursuing this as long as it's something that's going to help them keep their water costs down, for example.

That would be all, just kind of a minimum threshold financial return that they would look at.

So with that, I thank you all for letting me speak.

**HEARING OFFICER FAY:** Thank you for coming.

And one last call for public comment from non-party members of the public?

I see no request. Oh, there is one.

**MR. RAYNER:** Doug Rayner from Laguna Irrigation District.



And in light of the recent comment from PG&E on Power Exchange Corporation, my board and our customers in the District is very committed to entering into the power business. And although we would prefer to maybe enter into an arrangement with Power Exchange or lease agreement with PG&E, if those avenues aren't available to us, the options are to construct parallel lines with PG&E or use powers to purchase PG&E's facilities outright. But we are committed to entering the power business.

Not all the options were listed. We would possibly prefer to lease existing facilities, but would commit to construction.

**HEARING OFFICER FAY:** Okay. Thank you.

I see no indication of anybody else wanting to make further comments. I think we've done a good job of exploring this today and we built a record on which the Committee can start to deliberate.

So we thank you all for coming and making your contributions.

We are adjourned.

[Whereupon the hearing adjourned at 4:05 p.m.]

**CERTIFICATE OF REPORTER**

I, **S. RICE**, a duly commissioned Reporter of **CourtScribes**, do hereby declare and certify under penalty of perjury that I have recorded the foregoing proceedings which were held and taken at the **CALIFORNIA ENERGY COMMISSION** in Sacramento, California on the **20th day of February 1997**.

I also declare and certify under penalty of perjury that I have caused the aforementioned proceedings to be transcribed, and that the foregoing pages constitute a true and accurate transcription of the aforementioned proceedings.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

Dated this **24th day of February 1997** at Foresthill, California.

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**S. RICE**  
**REPORTER**